



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

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**Committee on the Elimination of Racial Discrimination**

**Combined twenty-fifth and twenty-sixth periodic  
reports submitted by Kuwait under article 9 of the  
Convention, due in 2020\***

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\* The present document is being issued without formal editing.



## I. Introduction

1. The State of Kuwait is honoured to submit its combined twenty-fifth and twenty-sixth periodic reports, in accordance with article 9 (1) of the International Convention on the Elimination of All Forms of Racial Discrimination.
2. The report follows the reporting guidelines issued by the Committee on the Elimination of Racial Discrimination.
3. The present report was drawn up with the assistance of the standing national committee for drafting reports and following up on human rights recommendations, which brings together all relevant State agencies. In addition, a consultative meeting regarding the preparation of the report was held with non-governmental organizations (NGOs) on Tuesday 9 April 2019.

## II. Concerns expressed and recommendations made by the Committee in section C of its concluding observations (CERD/C/KWT/CO/21-24)

### Paragraph 8

4. The Central Statistical Bureau in the State of Kuwait provides data and figures that can be used to demonstrate the economic and social rights of all the country's inhabitants. This information is available in social and economic bulletins on the Bureau's official website <https://www.csb.gov.kw/> where it may be accessed by researchers and others around the world who might be interested. Much of the data is classified under "Kuwaiti" or "non-Kuwaiti" or according to nationality, in accordance with the standards applied by the Statistical Commission of the United Nations and with the Constitution and domestic law.
5. As concerns migrants, the domestic law of Kuwait does not contemplate migrants in the Western sense of the term but only expatriates and residents. Data relating to them, disaggregated by nationality, is also to be found on the website of the Central Statistical Bureau.
6. As of the end of 2018, the total number of unlawful residents stood at around 85,000. This figure emerged from documentary research and scrutiny conducted by a team from the Central Bureau. The changes in the number are due to regularization, migration and increases in numbers of births and deaths.

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1990	220 000 persons
1995	121 000 persons
2010	105 000 persons
2015	96 000 persons
2016	92 000 persons
2017	88 000 persons
2018	85 000 persons

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### Paragraph 10

7. Kuwait acceded to the International Convention on the Elimination of All Forms of Racial Discrimination pursuant to Act No. 33 of 1968. Ratified treaties become an integral part of national law and the domestic legal order as of the date of their entry into force. Therefore, all government bodies and institutions, as well as individuals, must abide by the provisions of such agreements, and it is the responsibility of the Kuwaiti judiciary to ensure that they are respected and protected.

8. This national legal obligation is based on article 70 of the Constitution, which stipulates that the Amir concludes treaties by decree and transmits them immediately, together with an appropriate explanatory statement, to the National Assembly. Treaties have force of law after having been signed, ratified and published in the Official Gazette.
9. The approach Kuwait takes to eliminating racism and racial discrimination and promoting justice is based on the following verse from the Holy Qur'an: "Oh people! We have created you from a male and a female, and made you into nations and tribes so that you may know one other. Verily the most honoured among you in the sight of God is the most righteous." Moreover, according to article 2 of the Constitution, Islamic sharia is the main source of national legislation.
10. The general principles for combating racism are set forth in article 29 of the Constitution, which establishes the rules and frameworks for equality, non-discrimination and upholding human dignity. It stipulates that people are equal in human dignity and are equal before the law in public rights and duties and that there is no discrimination on the basis of gender, origin, language or religion.
11. According to article 7 of the Constitution: "Justice, freedom and equality are the pillars of society while cooperation and compassion act as a bond between citizens."
12. According to the interpretation contained in the explanatory note to the Constitution, article 29 establishes the general principle of equality of rights and duties then singles out the most important applications of that principle by specifying that there can be no discrimination on the basis of gender, origin, language or religion. It was decided not to include a reference to "colour or property" in this provision, although it appears in the Universal Declaration of Human Rights. The reason for this is because there is not the slightest suspicion of racial discrimination in the country and the wording of the article is, in itself, sufficient to dispel any such suspicion. Moreover, the idea of distinguishing between people on grounds of wealth is alien to Kuwaiti society and, consequently, there is no need to make specific mention thereof.
13. National legislation, which is consistent with the principles established in the Constitution, includes provisions that seek to promote and protect human rights and fundamental freedoms and to combat any manifestations of racial discrimination or racism, whatever their cause. These laws and provisions include the following:
14. Article 6 of Act No. 24 of 1962 concerning clubs and associations of public benefit, which stipulates that: "Associations and clubs shall not be permitted to pursue any unlawful objective and they are prohibited from involvement in politics or in religious controversies or from inciting intercommunal, racial or confessional bigotry."
15. Article 46 of the Private Sector Employment Act No. 6 of 2010, which stipulates that: "It is likewise prohibited to terminate the services of an employee on grounds of race, origin or religion."
16. The Criminal Code also includes a number of general provisions to criminalize the dissemination of principles harmful to the country's social or economic order. In fact, article 30 of Act No. 31 of 1970, amending certain provisions of the Criminal Code (Act No. 16 of 1960), prohibits "associations, groups and bodies whose purpose is to disseminate principles aimed at the unlawful destruction of fundamental systems or at forcibly undermining the social or economic order of the country."
17. In a related context and as an affirmation of the principle of equality, the Constitution of Kuwait states that all persons have equal rights and duties before the law, and the country's domestic legislation is bound by those principles. For example, Act No. 16 of 1960 promulgating the Criminal Code underscores the importance of equality in the application of the provisions it contains. In fact, article 11 stipulates that the provisions of the Act are applicable to all persons who commit an offence envisaged therein, within the territory of Kuwait. Under Act No. 109 of 2014, article 4 bis was added to Act No. 14 of 1973 concerning the establishment of the Kuwaiti Constitutional Court. The article states: "Any natural or legal person may bring a case before the Constitutional Court to appeal against any law, decree or regulation, if the person concerned has well-founded misgivings that the decree or regulation violates the Constitution, and if the person has a direct personal interest in the

appeal.” Under that provision, all persons in Kuwait may lodge an appeal before the Constitutional Court if a law or regulation violates some part of the Constitution, including the principles of equality and non-discrimination.

18. By way of affirmation that all persons enjoy legal capacity in Kuwait with no distinction between citizens and residents, the provisions of Act No. 67 of 1980 promulgating the Civil Code are general and abstract, without any distinction or discrimination. This is evident in article 84, which stipulates that “all persons are eligible to enter into a contract unless the law specifies that they are ineligible or rescinds their eligibility”.

19. Likewise, article 1 of Decree-Law No. 19 of 2012, concerning the protection of national unity, prohibits advocacy or incitement – using any of the means of expression provided for in article 29 of Act No. 31 of 1970, amending certain provisions of the Criminal Code – of hatred or contempt for any social group; provocation of sectarian or tribal factionalism; promotion of ideologies based on the superiority of any race, group, colour, origin, religious confession, gender or lineage; encouragement of any act of violence to that end; and the dissemination, propagation, printing, broadcasting, re-broadcasting, production or circulation of any false rumours likely to lead to any of the above. These provisions also apply to anyone outside Kuwaiti territory who commits an act which renders him or her liable, as principal actor or accomplice, for a criminal offence all or any part of which is perpetrated inside Kuwait. Means of expression is understood to include the Internet, blogs published on the Internet and any other modern form of communication.

20. Article 2 of the same Decree-Law prescribes the following criminal penalties for the above-mentioned acts: “Without prejudice to any more severe penalty provided for in other laws, anyone who commits an act in violation of the prohibitions stipulated in article 1 of the present Act shall be liable to a term of imprisonment of up to 7 years and/or a fine of between 10,000 and 100,000 Kuwaiti dinars (KD), together with the confiscation of the means, funds, instruments, newspapers and printed matter used to commit the offence. The penalty shall be doubled in the event of a repeated offence.”

## **Paragraph 12**

21. In order to guarantee human rights and freedoms within Kuwait, and in obedience to the voluntary pledges the State entered into in May 2010 following its first review under the Human Rights Council’s universal periodic review mechanism, Act No. 67 of 2016 was issued under which the National Bureau for Human Rights came into being.

22. In order to give real effect to this initiative and to consolidate it in law, the Act gives the Bureau a special legal status as a national, official and independent body for human rights. It is not an administrative or governmental agency in the customary legal sense, nor is it a civil society organization. The most appropriate legal description of the National Bureau for Human Rights is that it is a permanent, national body that concerns itself with human rights and freedoms.

23. Article 2 of the Act establishing the Bureau states that it is “under the supervision of the Council of Ministers. The Bureau shall have legal personality and shall be independent in the exercise of its functions, activities and mandate.”

24. Article 3 focuses on the number and diversity of members of the Bureau’s governing council. In the exercise of their functions, the members of the governing council enjoy the immunity granted to members of independent national bodies, in accordance with international human rights treaties.

25. Article 6 enumerates 14 functions, tasks and activities which it is proposed that the Bureau should carry out and which take account of a range of human rights frameworks including the international obligations contained in the main human rights treaties and the responsibilities set forth in paragraph 3 of the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

26. In the light of the overriding importance of cooperation and coordination among different national bodies, article 7 of the Act addresses the obligation of governmental

agencies of all kinds, as well as non-governmental entities, to assist the Bureau by providing it with the information, data and documentation it requires.

27. Article 9 includes provision for the creation of standing committees within the governing council, each headed by a council member: a committee on civil and political rights; a committee on family rights; a committee against torture, racial discrimination and human trafficking and a committee for complaints and grievances.

28. With regard to the recommendation, contained in subparagraph (b), to operationalize the National Bureau for Human Rights, it should be noted that, Decree No. 269 of 2018 regarding the appointment of members of the Bureau's governing council was duly issued and that the Bureau is now operating, functional and actively pursuing human rights-related issues in Kuwait. It also participates in numerous meetings, both at home and abroad.

### Paragraph 14 (a)

29. The Ministry of the Interior applies and enforces the law to all persons regardless of their nationality, colour or gender, in order to maintain security and public order in the State. In doing so it applies the following criteria:

- The principle that the rule of law is applicable to everyone, without distinction or discrimination between citizens and foreign residents. Police stations within the security directorates receive reports of crimes committed for various motives, which are all handled without discrimination, manifestation of hatred or racial discrimination towards the complainant or the party who is the subject of the complaint, and regardless of gender or nationality. The law is applied equally to all persons, all of whom are equal before the law;
- The law governs the treatment of all persons being held in detention centres. Police officers are under strict instructions not to manifest any form of racial hatred or discrimination in the treatment of detainees, and they are obliged to abide by the orders of the investigating authorities – the Office of the Public Prosecution and investigators – regarding the arrest and detention of persons pending investigation. In fact, there is no racial discrimination of any kind in the enforcement of such orders.

### Paragraph 14 (a)

30. Given below are statistics regarding cases examined by courts of different levels in Kuwait that concern violations of the Decree-Law protecting national unity or the incitement of sectarian strife. The statistics, which concern the period 2016–2019, are disaggregated by number of accused persons and the sentence handed down.

(1) **Statistics regarding cases involving violations of the Decree-Law protecting national unity or the incitement of sectarian strife disaggregated by number of accused persons and type of sentence (appeal) for the period 2016–2019**

<i>Period</i>	<i>Sentence</i>	<i>No. of cases judged</i>	<i>No. of accused</i>
2016	Imprisonment for between 5 and 10 years		1
	Acquittal		1
	Referral		1
	Dismissal and upholding		3
<b>Total cases</b>		<b>5</b>	<b>6</b>
2017	Termination of criminal proceedings		1
	Termination of criminal proceedings, without bail		1
	Confiscation		1
	Acquittal		1
	Overturning of sentence		1

<i>Period</i>	<i>Sentence</i>	<i>No. of cases judged</i>	<i>No. of accused</i>
	Dismissal and upholding		8
	Suspending proceedings in an appeal from the Office of the Public Prosecution or the accused		4
	Dismissal of an appeal from the Office of the Public Prosecution and upholding the sentence		1
	Dismissal		1
	<b>Total cases</b>	<b>15</b>	<b>19</b>
2018	Fine		1
	Termination of criminal proceedings, with bail		1
	Confiscation		1
	Lapse of an appeal from the Office of the Public Prosecution		1
	Amendment of sentence		2
	Overturning of sentence		2
	Dismissal and upholding		5
	Suspending proceedings in an appeal from the Office of the Public Prosecution or the accused		3
	Not competent to hear the case		1
	Dismissal of an appeal from the Office of the Public Prosecution and upholding the sentence		5
	<b>Total cases</b>	<b>18</b>	<b>22</b>
2019	None	-	-
	<b>Total cases</b>	<b>-</b>	<b>-</b>
	<b>Total</b>	<b>38</b>	<b>47</b>

(2) **Statistics regarding cases involving violations of the Decree-Law protecting national unity or the incitement of sectarian strife disaggregated by number of accused persons and type of sentence (cassation) for the period 2016–2019**

<i>Period</i>	<i>Sentence</i>	<i>No. of cases judged</i>	<i>No. of accused</i>
2016	Fine	1	1
2017	Fine	1	1
	Dismissal and upholding		1
2018	Imprisonment for less than 6 months	1	1
	Amendment of sentence	1	1
	Order to suspend enforcement of sentence	1	1
	Dismissal		1
2019	Non-acceptance of appeal	1	1
	Non-acceptance of appeal, in chambers	1	1
	Dismissal	1	1
	<b>Total</b>	<b>8</b>	<b>10</b>

**Paragraph 14 (b)**

31. For some years the Ministry of the Interior has been at pains to ensure that its annual general training plan includes courses on human rights culture for police officers. The courses are set by highly qualified experts and imparted by skilled and competent trainers.

32. The Ministry of the Interior has organized or participated in the following types of courses, which have been incorporated into its annual training plans:

- Training courses on general human rights;
- Training courses on international protection for human rights;
- Training courses on international humanitarian law;
- Training courses on human rights and freedoms during the evidence gathering stage;
- Training courses on warrants, arrests, searches and referral to the competent authorities;
- Training courses on how to conduct arrest and search procedures while avoiding the arbitrary exercise of authority;
- Training courses on procedures for the search of private homes under Kuwaiti law;
- Training courses on rules for the seizure of goods under Kuwaiti law;
- Training courses on the principles of criminal investigation;
- Training courses on the role of security personnel in dealing with cases of violence involving young persons;
- Training courses on criminal procedures in cases of child abuse;
- Training courses on the role of security personnel in combating human trafficking;
- Lectures on the principles of international humanitarian law;
- Lectures on human rights;
- Training courses to promote legal culture among police officers;
- Training courses on the role of legal culture among police officers;
- Training courses on professional ethics;
- Training courses on public relations.

33. It should be pointed out that police officers do not receive training only inside Kuwait, be it at academies and other centres belonging to the Ministry of the Interior or elsewhere. The Ministry also sends them overseas to participate in courses on the protection of human rights.

34. Kuwait also recognizes the importance of providing training courses for members of the judiciary. To that end, the Kuwait Institute for Judicial and Legal Studies has cooperated with the Office of the United Nations High Commissioner for Human Rights (OHCHR) on courses to train judicial officials in human rights, promoting knowledge of international human rights and consolidating human rights values and principles.

**The following courses took place in 2015**

- (1) Human rights phase 1;
- (2) Human rights phase 2;
- (3) Human rights phase 3;
- (4) Human rights in the context of criminal trials;
- (5) Training courses for judges and prosecutors on combatting human trafficking and migrant smuggling, held on 17 May 2015 and 6 October 2015.

**The following courses took place in 2017**

35. Over the past five years, the Institute has held the following specialized courses and seminars:

- (1) A course on the International Convention on the Elimination of All Forms of Racial Discrimination;

- (2) A course on the Convention on the Elimination of All Forms of Discrimination against Women;
- (3) A seminar on the right of women to housing welfare;
- (4) A seminar on the ill-treatment and neglect of children.

36. The Kuwait Institute for Judicial and Legal Studies, in cooperation with OHCHR, organized a train-the-trainer foundation course for judges on human rights and human rights treaties. The purpose of the course was to promote knowledge of international human rights while consolidating human rights values and principles, particularly in the judicial field. Seven members of the judiciary emerged from the foundation course as qualified human rights trainers.

37. A human rights module was integrated into the basic curriculum for legal scholars hoping to work in the Office of the Public Prosecution, as part of the programme of study of the Kuwait Institute for Judicial and Legal Studies. The aim is to ensure that human rights-related concepts and mechanisms are familiar to persons working in the courts and in the Office of the Public Prosecution.

## Paragraph 16

### Statistics regarding the conviction and acquittal of persons accused in cases of human trafficking between 2014 and October 2019

Year	Accused persons					
	First instance		Appeal		Cassation	
	Conviction	Acquittal	Conviction	Acquittal	Conviction	Acquittal
2014	0					
2015	3					
2016	8		5			
2017	12		4			
2018	12		16	1		
2019	43	1			15	1
<b>Total</b>	<b>78</b>	<b>1</b>	<b>25</b>	<b>1</b>	<b>15</b>	<b>1</b>

## Paragraph 18

38. An examination of Civil Service Act No. 15 of 1979 shows that it contains no text that endorses discrimination among candidates for employment in the public administration, be it on grounds of sex, origin, language or religion. Therefore, there is no need to introduce any amendments in that regard into the Act in question.

39. Article 29 of the Constitution of Kuwait reads: "All persons have equal human dignity and the same public rights and duties before the law, without discrimination on the grounds of gender, origin, language or religion." The prohibition of discrimination in all forms thus has constitutional grounding and, as is well known, norms enshrined in the Constitution are at the top of the domestic legal hierarchy, above other laws. Since the Constitution stands above the Civil Service Act, there is, therefore, no need to enunciate that prohibition in the Act itself, being a legal instrument lower than the Constitution.

## Paragraph 20

40. It should be noted that there have been no decisions illustrative of the application of Act No. 33 of 1968 by which Kuwait acceded to the International Convention on the Elimination of All Forms of Racial Discrimination. Should any such decisions be emitted,



they will be communicated to the Committee subsequently. Reference is also made to the information provided in reference to paragraph 14 (b).

## Paragraph 22

41. The term “sponsor” is absent from the Private Sector Employment Act No. 6 of 2010 and from the decrees issued thereunder. The legal term used is “employer”. The Public Authority for Manpower has issued a number of decrees the aim of which is to reduce the authority of employers over their employees and to provide greater protection to workers against any form of abuse at the hands of their employer. They include the following:

(1) Decree No. 535 of 2015, which limits the number of hours that may be worked in exposed areas;

(2) Decree No. 201 of 2011, which criminalizes forced labour;

(3) Decree No. 842 of 2015, which sets the conditions whereby workers may transfer from one employer to another, as amended by Decree No. 1024 of 2016;

(4) Administrative Decree No. 552 of 2018, promulgating the regulations and procedures for the issuance of work permits;

(5) A pilot project involving an automated linkage system with workers’ countries of origin so that the workers can be employed under certain specific criteria.

42. As concerns workers’ right to family reunification, article 1 of Ministerial Decree No. 3384 of 2016 states: “Obtention of an ordinary residence permit for persons coming from abroad to reunify with a breadwinner is conditional upon the latter receiving a monthly salary of not less than KD 450 (\$1,500). In the case of ordinary residence permits for reunification with a breadwinner for persons already present or born in the country, the Director-General of the General Department for Residency may waive the salary requirement referred to in paragraph 1 of this article.”

43. In line with that article, a foreign national must earn a monthly salary of not less than KD 450 from his employer in order to be able to bring his family (wife and children) from abroad, under family reunification entry visas and under his own guarantee.

44. Under paragraph 2 of the aforementioned article, the Director-General of the General Department for Residency has authority to issue ordinary residence permits for reunification with a breadwinner to persons already present or born in Kuwait even if that breadwinner does not fulfil the condition of earning KD 450 per month.

45. Moreover, under article 2 of the Ministerial Decree, persons practising certain professions are exempted from the salary requirement and are allowed to bring in their wives and children under family reunification entry visas even if they do not fulfil the necessary conditions.

### **Statistics regarding the number of residence permits issued under article 22 (family reunification) of the Residency Act up to 16 October 2019**

<i>Male</i>	<i>Female</i>	<i>Total</i>
202 062	341 783	543 845

## Paragraph 24 (a)

46. The Kuwaiti Constitution is the framework for all legislation issued and the legislature is guided by constitutional norms and principles when enacting new laws. All citizens and residents in Kuwait – including, of course, domestic workers – are under the Constitution which contains numerous principles to protect all persons in Kuwait against any form of abuse. Article 29 of the Constitution reads: “All persons have equal human dignity and the same public rights and duties before the law, without discrimination on the grounds of gender, origin, language or religion.” Article 31 states: “No person may be ... subjected to torture or

to ignominious treatment.” For its part, article 166 stipulates: “People are guaranteed the right to have recourse to law. The law itself shall determine the procedures and conditions required for the exercise of that right.” Domestic laws are enacted in the light of those binding constitutional principles. Specifically, Kuwaiti criminal legislation – which has been fixed for upwards of 50 years – provides protection against any abusive act against a human being, without distinction or discrimination among any persons living on national territory. The Criminal Code (Act No. 16 of 1960), as amended, envisages penalties for crimes against the person – including murder, injury, assault, abuse and endangerment – crimes against honour and reputation and crimes involving incitement to vice and debauchery. The Code also covers crimes against property such as theft, fraud and embezzlement. The rule applied is that persons who engage in the aforementioned crimes are liable to punishment, once the criminal act has been established in a judgment of the court.

47. Anyone who commits an act of abuse is dealt with under the national legislation enacted to that end and, as long as domestic criminal laws are sufficient to punish any crimes that might be committed, Kuwaiti legislators are of the view that such laws should be the general measure by which such acts are judged. However, in cases that necessitate a specific law then such a law can be issued with a view to providing additional protection. This is the case in human trafficking offences, as legally determined by the investigating authorities, wherein the penalties perpetrators face are those set down in the Prevention of Trafficking in Persons and Smuggling of Migrants Act No. 91 of 2013.

48. Although the protection of all persons, including domestic workers, against abuse is regulated under the aforementioned criminal legislation, Kuwaiti legislators have nonetheless envisaged other penalties that can be applied against employers in cases involving domestic workers. These are contained in section II of chapter VII of Act No. 68 of 2015 and thus provide complementary protection for that category of worker.

49. When the administrative authority with responsibility for domestic workers – i.e., the Public Authority for the Workforce – becomes aware of an episode of abuse by an employer against a domestic worker, it refers the matter to the Office of the Public Prosecution for it to exercise its own jurisdiction in the matter, under the aforementioned criminal legislation. Moreover, the Department of Domestic Labour was set up in the Public Authority for the Workforce and jurisdiction was transferred to the new body from the Ministry of the Interior under Council of Ministers Decree No. 614 of 2018. The Department receives complaints from workers against their employers, including complaints of abuse. If the complaint is substantiated by investigators in the Public Authority, the Department refers the matter to the competent authority; i.e., the Office of the Public Prosecution.

50. Domestic Workers Act No. 68 of 2015 includes detailed provisions concerning the relationship between workers and employers. Kuwait is eager to increase protection and care for migrant workers and to regulate the dealings between all the parties involved in their contractual arrangements: workers themselves, employers and recruitment bureaus. To that end, the Department of Domestic Labour was set up as part of the Public Authority for the Workforce. The Department was created pursuant to a decree of the Council of Ministers, which transferred the relevant responsibility from the Ministry of the Interior to the Public Authority for the Workforce, with effect from April 2019. The new Department has a number of responsibilities, the most important being the application of the law, inspecting recruitment bureaus, investigating violations and receiving complaints. The guarantees the Act offers to domestic workers have received praise from the Special Rapporteur on trafficking in persons, especially women and children.

51. There are 717,628 domestic workers in Kuwait. Between April and August 2019, the Department of Domestic Labour has received 2,087 complaints of which 256 were referred to the courts while 1,232 were settled amicably. As of August 2019, there were 451 officially registered recruitment bureaus.

52. Domestic Workers Act No. 68 of 2015 was designed to protect workers by placing their employers under numerous obligations, as illustrated by the following:

- Under articles 7 and 8 of the Act, employers are required to pay the agreed salary to domestic workers at the end of each month. The confirmation of transfer and the acknowledgement of receipt constitute proof of payment of the worker’s salary, which

is due with effect from the date of the worker's entry on duty. No deductions may be made from the salary under any circumstances;

- Under article 27, if an employer fails to pay a worker's salary on the date it is due, the worker is entitled to compensation amounting to KD 10 in respect of each month's delay;
- Under articles 9, 10 and 11, employers have an obligation to feed and clothe domestic workers, cover the workers' medical treatment and nursing expenses and provide them with decent accommodation. Employers do not have the right to assign domestic workers to perform any work that is hazardous or likely to prove detrimental to the worker's health or dignity;
- Article 22 stipulates that the recruitment contracts drawn up by the Department of Domestic Labour must include the following labour rights:
  - (1) Specification of the maximum number of daily working hours, which must be no more than 12 in a single day, interspersed with an hour of rest;
  - (2) The domestic worker's entitlement to a paid weekly day of rest and to paid annual leave;
  - (3) The employer's obligation to pay the costs of medical treatment and compensation in respect of any occupational injury suffered by the domestic worker;
  - (4) A stipulation to the effect that the domestic worker's passport is a personal document that the worker has a right to keep; consequently, employers are not entitled to seize passports or to prevent workers from retaining them.
- The Domestic Workers Act places employers and recruitment bureaus under an obligation to send a copy of the employment contract to the domestic worker. At the same time, the Ministry of Foreign Affairs is required to instruct Kuwaiti missions in workers' countries of origin that domestic workers seeking entry visas should be made familiar with the terms of their employment contracts before signing them. The purpose of this procedure is to ensure that domestic workers are fully aware of their rights, obligations and working conditions.

### **Mechanisms for receiving complaints in the Department of Domestic Labour**

53. The efforts of the Department of Domestic Labour at the Public Authority for the Workforce are specifically directed at protecting the more vulnerable party in the working relationship; i.e., the worker. The Department also runs training workshops and seminars to disseminate legal culture among the contracting parties, both workers and employers. In doing so it follows and applies a schedule intended to give the contracting parties (employers and workers) an awareness of the law and a full understanding of their rights and obligations.

54. Under the terms of articles 31 and 35 of Act No. 68 of 2015, the settlement of disputes arising between parties to a domestic employment contract falls under the jurisdiction of the Department of Domestic Labour. If a settlement cannot be reached, the parties are referred to the competent civil court.

55. If a worker contacts the Department of Domestic Labour to file a complaint against his or her employer and the Department is unable to settle the matter, the domestic worker is entitled to appeal to the courts and take legal action against the employer. In fact, the right of all persons to take legal action is enshrined in article 166 of the Constitution, which states: "People are guaranteed the right to have recourse to law." Moreover, cases involving domestic workers are exempt from legal fees, as a way of facilitating their access to justice and obtention of their rights. The table below shows the number of complaints submitted to the Department of Domestic Labour.

<i>No.</i>	<i>Period</i>	<i>No. of complaints</i>
1	1–30 April 2019	408
2	1–31 May 2019	802

<i>No.</i>	<i>Period</i>	<i>No. of complaints</i>
3	1–30 June 2019	1 224

### **Paragraph 24 (b)**

56. The competent investigating agencies of the State examine complaints and reports of crimes committed against individuals in general and against domestic workers in particular, and anyone found to have violated criminal law or the Prevention of Trafficking in Persons and Smuggling of Migrants Act is referred to the courts.

57. At its meeting No. 20/2007 held on 8 July 2007, the Council of Ministers issued Decree No. 652 to approve the establishment of a shelter for migrant workers, particularly female domestic workers, who are involved in disputes with their employers and who face difficult working, living or legal conditions. The centre takes in the workers and conducts the necessary procedures. It then sends them for a check-up of their mental and physical health, also with a view to determining their suitability for work. The workers can remain in the shelter until such time as their status changes, either by transferring their residence permit to another party of their choice or, if they so wish, by repatriation with all the relevant travel costs being paid. The centre, which can accommodate 500 residents, offers a number of services and has a 24-hour hotline to receive requests for shelter and reports of problems. A legal expert is also available at the centre who provides advice, studies each individual case and submits a report on how their legal situation could be regularized. Furthermore, in cooperation with the Ministry of the Interior, a fingerprint office has been opened inside the shelter to speed up travel procedures for residents.

58. The NGO Humanitarian Action Centre also has an office in the shelter, which provides legal support to some of the persons accommodated there. In addition, the shelter provides a range of other services, including the following:

- (1) Catering for residents' special personal needs;
- (2) Assistance in obtaining travel documents for residents from countries with no embassy in Kuwait;
- (3) Assistance in taking the fingerprints of residents;
- (4) Assistance in transporting residents to the airport;
- (5) Support in accessing health care;
- (6) Provision of free meals.

59. The success of the shelter for female migrant workers has motivated the Public Authority for the Workforce to establish a new shelter for men, based on the same principles. A site for the shelter has recently been identified and the necessary procedures are under way to obtain official approval for launching the project.

### **Paragraph 24 (c)**

60. The administrative deportation of domestic workers arises only in a single instance, which is defined in article 51 of Domestic Workers Act No. 68 of 2015, and that is if the worker flees or "abandons" the employer. The article reads: "If a domestic worker absconds from her/his employer, the Ministry of Interior will take action to deport the worker to her/his country, after collecting travel costs, the cost of the ticket and the amounts paid by the employer from the party that sheltered the worker, or from the recruitment bureau if the party that sheltered the worker cannot be reached. This is to take place within the period of the guarantee." Thus the only circumstance in which domestic workers can be administratively deported is if they flee from their employer.

61. The cases referred to the courts are those that have arisen between contracting parties and that the Department of Domestic Labour has been unable to resolve. They are cases involving a breach of obligation by one party to the contract towards the other party. This

matter is covered in article 31 of Domestic Workers Act No. 68 of 2015, which reads: “With regard to disputes that arise between the contracting parties, the Department of Domestic Labour has the jurisdiction to settle such disputes in accordance with the procedures laid down in the regulations issued to that end. If a settlement cannot be achieved, the dispute is to be referred to the competent court.”

62. Article 16 of the Foreign Nationals’ Residency Act, promulgated by Decree No. 17 of 1959, reads: “The Minister of the Interior may order the deportation of any foreign national, even if the latter has a residence permit, in the following cases:

- (1) If the foreign national has been convicted of an offence and the sentence of the court recommends deportation;
- (2) If the foreign national has no evident means of subsistence;
- (3) If the Minister of the Interior believes that the deportation is required in the public interest or the interest of public security or morality.”

63. Article 27 of Ministerial Decree No. 957 of 2019 promulgating the implementing regulations of the Foreign Nationals’ Residency Act states: “A foreign national may be administratively deported from the country, even if in possession of a valid residency permit, in the following circumstances:

- (1) If the foreign national has been convicted of a criminal offence or an offence involving a breach of honour or trust;
- (2) If, over a period of five years, three criminal sentences have been issued against the foreign national, one of which involves deprivation of liberty;
- (3) If, over a period of five years, four criminal sentences of any kind have been issued against the foreign national;
- (4) If deportation is necessary in the public interest or the interest of public security or morality.”

64. In any of the aforementioned cases, deportation is carried out in coordination with the competent authorities.

65. Under the aforementioned laws and regulations, it is the responsibility of the Ministry’s General Department for Residency to deport any foreign national from the country.

66. This was confirmed by the Court of Cassation in a ruling it issued during its session of 9 June 2003, to the effect that “the State has a sovereign and right to deport undesirable foreigners who may pose a danger and to refuse to renew their residence permits ... if it considers their presence on national territory to be harmful to the country’s internal and external affairs, and to take appropriate measures at its exclusive and unappealable discretion.” (Court of Cassation, appeal No. 345/2002, session of 9 June 2003).

67. It is clear, then, that the Ministry can administratively deport a foreign national from the county if it is proven that the individual in question committed a crime punishable by law or if the Ministry believes that the presence of the foreign national constitutes a threat and that the public interest would be served by the person’s deportation.

68. The power to deport foreign nationals is a question of sovereignty, one that the State evaluates with a view to preserving national security. It is consistent with article 13 of the International Covenant on Civil and Political Rights, which reads: “An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion.”

### **Safeguards for deported persons**

69. Foreign nationals against whom an order of deportation has been issued and who have interests inside the country are given a period of not more than three months to settle their affairs, in accordance with article 22 of Foreign Nationals’ Residency Act No. 17 of 1959, which reads: “If the foreign nationals against whom an order of deportation has been issued have interests inside the country that they need to settle, they are to be granted a period of

time in which to do so, upon payment of a cautionary deposit. The police and security chief shall determine the length of that period, which is not to exceed three months.”

70. Administrative deportation is regulated by rules and frameworks that are enshrined in the law, the purpose of which is to ensure the public interest. The right of the competent authority to issue deportation orders is not an unbridled power; rather, it is the law that defines the specific cases in which such a step can be taken.

71. Article 18 of Foreign Nationals’ Residency Act No. 17 of 1959 states: “A foreign national whose deportation has been ordered may be detained for not more than 30 days, if such detention is necessary for the implementation of the order.”

72. According to article 20 of the Act: “The foreign national is to be removed from Kuwait by order of the Minister of the Interior if he or she is not in possession of a residence permit or if the term of that permit has expired. The person concerned may return to Kuwait if he or she fulfils the necessary entry conditions, in accordance with the law.”

73. Article 22 of the Act reads: “If the foreign nationals against whom an order of deportation or removal has been issued have interests inside the country that they need to settle, they are to be granted a period of time in which to do so, upon payment of a cautionary deposit. The Minister of the Interior shall determine the length of that period, which is not to exceed three months.”

74. Under article 1 (5) of Act No. 20 of 1981 on the establishment of a chamber in the High Court for the consideration of administrative disputes, administrative deportation orders are not subject to oversight by the administrative judiciary, and no appeal for annulment can therefore be made. However, they are subject to the provisions regarding complaints against administrative decisions, as per Act No. 16 of 1990. Persons in detention pending deportation can request the administrative authorities to re-examine their case. Such requests are examined and a decision is taken. Persons awaiting deportation also have other safeguards to ensure that their rights are not being infringed, and they may lodge a complaint with the administration against the deportation order, accompanied by a guarantee from the commercial airline offices in the temporary detention centre indicating the immediate availability of seats, and at the expense of the employer.

#### **Paragraph 24 (d)**

75. Under Council of Ministers Decree No. 614 of 2018, jurisdiction for domestic workers was transferred from the Ministry of the Interior to the Public Authority for the Workforce. Following that move, a body – called the “Department of Domestic Labour” – was set up as part of the organizational structure of the Public Authority. The Department undertakes to apply the provisions of Act No. 68 of 2015 to which end it has established two divisions: a recruitment division and an inspection and follow-up division. In coordination with the Ministry of Trade, the Department has the task of issuing and renewing operating licences to domestic worker recruitment bureaus. In addition, it sends specialized inspectors from the Public Authority to check that recruitment bureaus are applying the law as they should. Any violations are recorded and the legal provisions envisaged in the law are duly applied. Another of the Department’s roles is to settle disputes that may arise between employers, domestic workers and recruitment bureaus regarding the application of the law or any breach of contractual conditions.

76. A number of ministerial decrees have been issued with a view to giving effect to Act No. 68 of 2015. These include Ministerial Decree No. 2194 of 2016 promulgating the implementing regulations of the Act (copy attached), Ministerial Decree No. 2302 of 2016 promulgating rules and procedures for the implementation of the Act and its amendments (copy attached), as well as a number of circulars also regarding the implementation of the Act. It should be noted that the Public Authority for the Workforce continues to use its model recruitment contracts: the tripartite recruitment contract for domestic workers and the bilateral recruitment contract for domestic workers, as envisaged under Ministerial Decree No. 2302 of 2016 (copy attached). The table below contains statistics from the Department of Domestic Labour for the year 2019/20.

	<i>Kuwaiti dinars</i>									
April 2019	363	1 593	403	94	18	408	38	9	123 357	717 628
May 2019	397	1 606	530	67	8	802	281	56	138 003	717 628
June 2019	426	1 636	576	56	8	1 224	171	35	121 145	717 628
July 2019	441	1 688	613	55	3	1 706	264	97	176 404	717 628
August 2019	451	1 366	630	26	2	2 087	478	59	224 119	717 628
September 2019	458	1 436	648	14	6	2 485	465	120	201 092	717 628
October 2019	469	1 480	661	10	7	2 878	495	123	186 022	727 246
November 2019	473	1 513	676	1	5	3 241	268	95	173 246	727 246
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>323</b>	<b>57</b>	<b>0</b>	<b>2 460</b>	<b>594</b>	<b>1 343 388</b>	

### Paragraph 26 (a)

77. The Public Authority for the Workforce offers online services for all categories of workers registered with the Authority. Using those services, workers can submit labour-related complaints, follow the progress of those complaints and request information on reports of absenteeism made against them. The aim is to protect the rights of private-sector workers. The Public Authority for the Workforce also verifies that workers are fulfilling their obligations towards their employers within the framework of laws, decrees and regulations on labour relations. In addition, the Authority provides online services whereby private-sector workers can obtain copies of documentation testifying to their employment status, file complaints regarding labour disputes or work-permit conflicts and follow the progress of those complaints. Employers can use the same online services to report absences. Thanks to these online services, both sides in the working relationship are informed via text message of all developments regarding disputes or absences.

78. Between January and September 2019, a total of 14,062 online complaints were submitted. Moreover, if cases involving domestic workers – regarding a dispute with an employer about the interpretation of the contract or any other cause – come before the courts, they are exempt from legal fees as a way of facilitating workers' access to justice and obtention of their rights.

79. Domestic Workers Act No. 68 of 2015 regulates the relationship between worker, employer and recruitment bureau. It also regulates the labour rights of workers including their pay, working hours, leave and severance pay, as well as the penalties imposed on employers and how to resolve disputes that may arise between employers and domestic workers. As for the prosecution of perpetrators of violence against domestic workers, all offences against individuals are criminalized in articles 149 to 173 of chapter I, volume III, of the Kuwaiti Criminal Code (Act No. 16 of 1960).

80. A task force has been set up within the inspection division of the Department of Domestic Labour to monitor and follow up on any violations workers may suffer, using all possible means including social media. Cases are followed up and addressed immediately with a view to resolving them as per the legal procedures set forth in the Domestic Workers Act.

81. The Department of Domestic Labour has also developed a variety of mechanisms whereby domestic workers can report any abuse they may have suffered:

- Notification via the domestic worker's embassy;
- Notification by email to the Department;
- Notification by a special telephone number for receiving complaints.

82. Act No. 68 of 2015 has been printed and translated into seven languages (Arabic, Urdu, Sinhala, Filipino, Amharic, French and English), and it has been disseminated to raise awareness among domestic workers, employers and recruitment agencies about the rights and duties of all parties.

### Paragraph 26 (b)

83. Kuwait is keen to provide protection to all foreign workers and to ensure that they are able to exercise the rights they enjoy under domestic law. To this end, it has created mechanisms to help them obtain those rights. The statistics below show the number of complaints received by the competent authorities, which attempt to resolve those complaints in line with the law or, otherwise, to refer them to the courts which then rule on them independently.

#### Statistics regarding complaints over work permits between 1 January 2019 and 9 December 2019, disaggregated by decision taken

<i>Outcome</i>	<i>No. of complaints</i>
Archived as not legally valid	266
Archived	2
Archived due to renouncement by complainant	1 887
Archived due to failure of complainant to appear	785
Under investigation	1 149
Amicable settlement	271
Archived due to non-jurisdiction	31
Approval of definitive cancellation of travel	701
Approval of referral	1 961
Non-approval of referral	789
Other	4
Non-approval and authorization for the worker definitively to cancel travel	60

#### Statistics regarding complaints over workplace disputes (workers' entitlements) between 1 January 2019 and 9 December 2019, disaggregated by decision taken

<i>Outcome</i>	<i>No. of complaints</i>
Archived	3
Archived due to failure of complainant to appear	1 291
Referred to the courts	6 636
Under investigation	2 456
Archived due to renouncement by complainant	1 418
Amicable settlement	391

#### Statistics regarding violations referred to the General Department for Investigations by the Public Authority for the Workforce between 1 January 2019 and 26 November 2019

<i>Workplace inspection</i>	<i>Occupational safety</i>	<i>Permanent Suspension</i>	<i>Art. 10</i>	<i>Total</i>
329	809	115	239	1 492



**Statistics regarding the outcome of efforts made by the joint committee (Ministry of the Interior, Ministry of Trade, Kuwait Municipality and the Public Authority for the Workforce) to reorganize migrant labour, for the period 1 January 2019 to 1 November 2019**

<i>Periodic inspections</i>		<i>Follow-up inspections</i>	<i>Number of workers in undetermined workplace (4,978)</i>			
			<i>Itinerant workers</i>	<i>Street vendors</i>		
First	Subsequent		Commercial licence			
881	287	4 186		4 908	47	23
			Private sector		2 289	
			Reunification with breadwinner		113	
			Servant/domestic worker		2 539	
			Visits		7	
			Unlawful resident		6	
			Citizens of States of the Cooperation Council		3	
			Others		21	

84. Up to October 2019, the Ministry of the Interior's General Department for Investigations registered 915 cases regarding violations of Act No. 6 of 2010.

**Statistics regarding sentences issued in cases involving violations by employers of Act No. 6 of 2010, from 1 January to 19 October 2019**

<i>Court</i>	<i>Sentence</i>	<i>No. of sentences</i>
First instance	Acquittal	83
	Fine	413
	Payment of fine by instalment	6
	Order to suspend imposition of fine, with bail	12
	Termination of criminal proceedings, without bail	5
	Order to suspend imposition of fine, without bail	18
	Termination of criminal proceedings, with bail	9
<b>Total</b>		<b>546</b>
Appeal	Acquittal	23
	Dismissal and upholding	32
	Overturning of sentence	35
	Amendment of sentence	3
	Lapse of criminal proceedings	3
	Order to suspend enforcement of sentence	6
	Non-acceptance of appeal because presented after the deadline; order to suspend imposition of fine, without bail	6
	Dismissal of an appeal from the Office of the Public Prosecution and upholding the sentence	117
<b>Total</b>		<b>225</b>
Contestation	Acquittal	16
	Fine	3
	Dismissal and upholding	82
	Overturning of sentence	57

<i>Court</i>	<i>Sentence</i>	<i>No. of sentences</i>
	Amendment of sentence	9
	Lapse of criminal proceedings	4
	Order to suspend enforcement of sentence	7
	Proceedings dropped due to statute of limitations	12
	Acceptance of the contestation in its form and upholding of sentence	4
	Consideration of contestation or appeal as null and void	128
	Order to suspend imposition of fine, without bail	3
	Termination of criminal proceedings, with bail	8
	<b>Total</b>	<b>333</b>
Cassation	Acceptance	12
	Acquittal	3
	Overturning of sentence	12
	Amendment of sentence	4
	Non-acceptance of appeal	3
	<b>Total</b>	<b>34</b>
	<b>Total</b>	<b>1 138</b>

### Paragraph 26 (c)

85. Article 29 of the Private Sector Employment Act No. 6 of 2010 states: “All contracts are to be drawn up in Arabic. A translation in another language may be provided but, in the case of any dispute, the Arabic text is authoritative.”

86. The Public Authority for the Workforce has asked the Ministry of Foreign Affairs to instruct Kuwaiti missions in workers’ countries of origin that domestic workers seeking entry visas should be made familiar with the terms of their employment contracts before signing them. The purpose of this is to ensure that domestic workers are fully aware of their rights, obligations and working conditions.

### Paragraph 28 (a)

87. The granting of nationality is a sovereign right, one that the State evaluates in the light of its own supreme interests. It is subject to rules and conditions that are regulated by the Kuwaiti Nationality Act No. 15 of 1959, as amended, which specifies the cases in which nationality may be obtained. The Central Agency for the Remedy of Situations of Unlawful Residents puts forward the names of persons who fulfil the conditions for obtaining Kuwaiti nationality under the Act and under the conditions set forth in the road map adopted by the Council of Ministers.

88. Some 17,285 unlawful residents were naturalized between 1992 and the end of 2018.

### Paragraph 28 (b)

89. Obtaining civil status documentation of all kinds is an established right, which the State recognizes for all persons present on its territory. Civil status documents for unlawful residents are produced thanks to cooperation between the Central Agency, the Ministry of Justice and the Ministry of Health.

90. Birth and death certificates are issued in accordance with Act No. 36 of 1969 regulating the registration of births and deaths. The Government has facilitated procedures

for the issuance of official documents to persons unlawfully resident in the country. In fact, under Council of Ministers Decree No. 409 of 2011, the expression “non-Kuwaiti” is to be entered under “nationality” in place of the person’s original nationality. The facilities adopted by the Government in this connection have led to an increase in the number of documents issued to unlawful residents.

**(1) Obtaining official documents**

91. Obtaining civil status documentation of all kinds is an established right, which the State recognizes for all persons present on its territory, as it is regarded as a means by which the State protects the family. Civil status documents for unlawful residents are produced thanks to cooperation between the Central Agency, the Ministry of Justice and the Ministry of Health.

**(2) Job opportunities in the public and private sector**

92. The Central Agency, in coordination with other State bodies, employs unlawful residents of both sexes in the public and the private sector, depending upon available vacancies and according to the regulations and conditions the Central Agency has adopted.

93. In 2018, 324 unlawful residents were appointed to government agencies and 376 were employed in cooperative societies. In addition, the door was opened for the children of Kuwaiti women and unlawfully resident men to enlist in the Kuwaiti army, and 2,280 of them have done so over the last six years.

**Paragraph 28 (c)**

94. Ordinary residence is granted to persons who come into the country depending upon the type of entry permit issued, whether for work, study or family reunification. The persons concerned must first have fulfilled all the conditions necessary to gain residence, as set forth in the Foreign Nationals’ Residency Act and its implementing regulations.

95. Persons who come into the country on a visitor’s entry permit are permitted to remain for the prescribed period, which depends upon the kind of permit they received. If that period expires, the persons concerned may be granted temporary residence under article 14 of the aforementioned Act, should their return to their own country be prevented due to security restrictions or if their state of health makes it advisable for them to remain in the country for treatment.

**Paragraph 28 (d)**

96. A study on the issue of unlawful residents, which was carried out in 2010 by the Supreme Council for Planning and Development and which included a clearly demarcated road map, was adopted by the Council of Ministers under Decree No. 1612 of 2010. This then led, on 9 November 2010, to the issuance of a decree establishing the Central Agency for the Remedy of Situations of Unlawful Residents, which was delegated to put the road map into effect with other competent national bodies. The Central Agency has worked ceaselessly in the interests of unlawful residents and has presented an initiative to the Council of Ministers aimed at maintaining the continuity of its humanitarian and civil services for that category of persons.

97. This does not mean that unlawful residents were denied access to humanitarian services prior to the creation of the Central Agency. Indeed, the State was meeting and continues to meet all their humanitarian needs.

98. As of the end of 2018, the total number of unlawful residents stood at 85,000. They have been given user cards wherewith they can access all the services offered by the Central Agency, which are described below.

**(1) Free education**

99. Unlawful residents enjoy access to free educational services. The children and grandchildren of Kuwaiti women, the children and grandchildren of military personnel and the children of persons working in the Ministry of Education are all admitted to State-run schools. In the school year 2018/19 there were 13,682 such students in State education, which includes general education of all levels, adult education, religious education and education for persons with special needs.

100. The Charitable Fund for Education, which was established by the State, meets tuition costs at all levels of study. During the academic year 2018/19, a total of 15,448 students benefited from the Fund at a cost of KD 5,478,115.

**(2) University education**

101. The Government has also provided this category of persons with an opportunity to complete their studies at university level and they are no longer limited to primary or secondary schooling. In fact, His Highness the Amir issued directives for the children of unlawful residents who excel at school to be admitted to university.

102. According to the latest statistics from Kuwait University, which refer to the academic year 2018/19, a total of 1,265 unlawful residents were enrolled in the institution.

103. In the same year, a total of 1,995 unlawful residents were enrolled in the Public Authority for Applied Education and Training, with 588 being admitted and 246 graduating.

104. Four hundred and eight unlawful residents were admitted to private universities bringing the total number enrolled there to 1,168.

105. The number of unlawful residents registered with the Ministry of Education for a master's degree or doctorate totalled 141.

**(3) Obtaining a driving licence**

106. The requirements for the issuance of driving licences are specified in article 85 of the implementing regulations of the Traffic Act (Ministerial Decree No. 1729 of 2005), as amended by Decree No. 393 of 2013 regarding requirements for the issuance of driving licences. Unlawful residents holding user cards issued by the Central Agency are exempt from certain requirements. Driving licences are issued, without impediment, to all unlawful residents over 18 years of age who pass the oral and practical tests, and there is no gender-based discrimination in regard to the issuance of driving licences.

107. The Ministry of the Interior issued or renewed 25,723 driving licences during the course of 2018. Of these, 1,861 were new issues and 23,862 were renewals.

**(4) Job opportunities in the public and private sectors.**

108. The Central Agency, in coordination with other State bodies, employs unlawful residents of both sexes in the public and the private sector, depending upon available vacancies and according to the regulations and conditions the Central Agency has adopted.

109. In 2018, 324 unlawful residents were appointed to government agencies, bringing the total there to 2,066, and 739 were employed in cooperative societies. In addition, the door was opened for the children of Kuwaiti women and unlawfully resident men to enlist in the Kuwaiti army, and 2,981 of them have done so over the last six years.

110. In addition, a further 549 were appointed to the Kuwait Petroleum Corporation and its subsidiaries.

**(5) Ration services**

111. Unlawful residents are granted a ration card wherewith they can purchase foodstuffs at symbolic prices, on an equal footing with Kuwaitis. The foodstuffs available include rice, lentils, oil, milk, frozen chicken and milk for children. Around 85,000 unlawful residents benefited from the scheme in 2018, at a total cost of KD 18 million.

**(6) Free medical treatment**

112. Unlawful residents are treated on an equal footing with citizens in regard to fees, in accordance with Ministerial Decree No. 86 of 2011, and the Government provides them with full medical treatment. A decision has been taken jointly by the Central Agency and the Ministry of Health to exempt persons holding insurance cards issued by the Agency from all health service fees, on an equal footing with Kuwaitis. Even persons who have not registered for the issuance of a health insurance card are likewise exempt from all health service fees.

**(7) Obtaining official documents**

113. Obtaining civil status documentation of all kinds is an established right, which the State recognizes for all persons present on its territory, as it is regarded as a means by which the State protects the family. Civil status documents for unlawful residents are produced thanks to cooperation between the Central Agency, the Ministry of Justice and the Ministry of Health.

**The table below shows the official documents issued in the course of 2018**

<i>2018</i>	
Certificates of marriage	1 027
Certificates of divorce	477
Certificates of remarriage	74
Birth certificates	1 948
Death certificates	214
Inheritance documents	2 131
Other documentation	1 617
Authentications	6 132

**(8) Persons with disabilities**

114. A total of 1,491 unlawful residents with disabilities benefit from the services provided by the Supreme Council for Persons with Disabilities, in accordance with the Act establishing the Public Authority for Persons with Disabilities and the Convention on the Rights of Persons with Disabilities.

**The table below shows the services provided to unlawful residents with disabilities in the course of 2018**

Number of persons holding a valid certificate of disability	1 491
Number of persons holding a disability identity card	595
Number of persons with a disability number plate on their vehicle	347
Number of persons holding a letter "To whom it may concern"	54

**Paragraph 28 (e)**

115. Non-citizens may apply for Kuwaiti nationality if they meet the conditions and requirements stipulated in articles 4, 5, 7 and 8 of the Kuwaiti Nationality Act No. 15 of 1959, as amended. Nationality is then conferred by decree, on a proposal from the Minister of the Interior, without discrimination against any individual. The written decrees whereby nationality applications are assessed are not subject to appeal as the granting of nationality is a matter that touches upon the sovereignty of the State.

**Paragraph 28 (f)**

116. Many international human rights organizations persistently confuse two separate categories, that of stateless persons and that of persons who are unlawfully resident. There is a great difference between them in conceptual terms. Stateless persons, according to the 1954 Convention relating to the Status of Stateless Persons, are persons who are not recognized as nationals under any State's legislation. This is not the case for unlawful residents who entered Kuwait illegally and concealed documents indicating their original nationality in order to settle in Kuwait, benefit from its services and acquire its nationality. Accordingly, the concept of stateless persons, as defined in the Convention, is not applicable to them, and the fact that the State of Kuwait has not acceded to the two Conventions has no impact on their situation. In light of the foregoing, the legal status of the two categories of persons is different. While the presence of an unlawful resident breaches the Foreign Nationals' Residency Act No. 17 of 1959 and the person concerned is required to rectify the situation, stateless persons are not required to do so, since they have no specific nationality.

117. Furthermore, searches of the records of diverse State authorities have revealed the nationalities and origins of many unlawful residents, through documentation and relatives.

118. Between 1991 and the present, some 91,000 people have regularized their status by disclosing their nationality or returning to their country of origin. Accordingly, they cannot be considered stateless.

**Paragraph 30**

119. Torture is prohibited under Kuwaiti law and persons responsible for torture face severe criminal penalties. Article 53 of Act No. 31 of 1970 amending certain provisions of the Criminal Code (Act No. 16 of 1960) states: "Any public official or employee who, either directly or through another, tortures an accused person, witness or expert to force them to confess to an offence, or to make statements or provide information in that regard, shall be liable to a term of imprisonment of up to 5 years and/or payment of a fine of up to KD 500. If the torture leads to or is accompanied by acts that attract a more severe penalty, then that penalty shall be applied and, if the torture results in death, then the person concerned shall receive the penalty for premeditated murder."

120. Article 54 of the Act states: "Any public official or employee, or any person charged with providing a public service, who orders or inflicts on a convicted person a penalty that is more severe than the penalty imposed by law, or a penalty that is not imposed by law, shall be liable to a term of imprisonment of up to 5 years and/or payment of a fine of up to KD 500."

121. According to article 56 of the Act: "Any public official or employee, or any person charged with providing a public service, who abuses his or her position to use force against a person with the aim of causing him or her dishonour or bodily pain shall be liable to a term of imprisonment of up to 3 years and/or payment of a fine of up to KD 225."

122. The General Department for Oversight and Inspection, which is part of the Ministry of the Interior, undertakes daily tours of inspection to temporary detention centres, police stations, the offices of the Directorate General of Criminal Investigation and the offices of the General Department for the Enforcement of Sentences. It also conducts inspections of prisons and penitentiaries. The inspections focus on the conditions of detention and imprisonment and the extent to which they are consistent with international human rights standards and domestic law. Any violations or inhuman practices that are observed are reported to the responsible officials in the Ministry for them to take prompt measures and to impose deterrent penalties upon the perpetrators. This in itself prevents acts of torture and ill-treatment from taking place while promoting humane treatment. In particular, the inspections focus on the following:

- Verifying the validity of the detention and the authority that ordered it;
- Confirming that the detention is legal and that the predetermined period of custody has not been exceeded;

- Inspecting temporary detention centres to ensure that conditions there are consistent with the law and that detainees have adequate health, social and security conditions;
- Ensuring that detainees are given the opportunity to contact relatives or legal representatives so that the latter can follow up on their cases and resolve their legal difficulties, which is a right guaranteed by law, pay their debts and bring them before the courts or the investigating or judicial authorities at the appointed times;
- Monitoring conditions of detention to ensure that detainees are not being mistreated or abused;
- Informing the embassies of the countries of origin of foreign detainees that the person concerned is in detention and the reasons for that detention;
- Examining the meals provided to detainees from a point of view of quality, amount and nutritional value;
- Providing comprehensive health care to detainees and transporting them to hospital if so required;
- Preserving detainees' properties and assets as per official registers;
- Ensuring that a special register is kept in which any movements affecting detainees are recorded, to be used as a reference in order to safeguard detainee's rights if any error or violation occurs.

123. The competent department with the Ministry of the Interior does not hesitate to conduct administrative investigations if any allegation of torture or ill-treatment is made. If the claims are substantiated, the persons against whom the accusations were made are referred to the competent authorities. Moreover, under the Police Act No. 23 of 1968 and its implementing regulations, and Civil Service Act No. 15 of 1979, persons being investigated for such allegations are suspended from work if the interests of the investigation so require.

### Paragraph 32

124. As stated in its explanatory note, Kuwaiti Nationality Act No. 15 of 1959, as amended, is one of the nation's most important and far-reaching laws. It defines the borders of the country and distinguishes between citizens and foreigners. The Nationality Act is one of the country's chief bulwarks which, while taking account of local circumstances, also respects the general principles recognized in the nationality laws of other civilized States. Under the Act, nationality is granted automatically on the basis of the principle of *jus sanguinis*, while the principle of *jus soli* is taken into account in certain cases.

125. Article 3 of the Act provides for the granting of Kuwaiti nationality to a person born in Kuwait or abroad to a Kuwaiti mother and an unknown father, or if the child's legitimate paternal filiation cannot be established. Kuwaiti nationality is granted to anyone born to unknown parents. By law, foundlings are considered to have been born in Kuwait unless proven otherwise. Therefore, in such cases, the child acquires nationality through his or her Kuwaiti mother as a result of "partial *jus sanguinis*."

126. In accordance with article 5 (2) of Act No. 100 of 1980 amending Kuwaiti Nationality Act No. 15 of 1959, Kuwaiti nationality is granted to the children of Kuwaiti women who have been irrevocably divorced or whose husbands are deceased or prisoners of war.

### Paragraph 34

127. There are no refugees or persons seeking refugee status in Kuwait as the country has not ratified the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. It should be noted, moreover, that persons of undetermined nationality (unlawful residents) are not fined for violations of the Foreign Nationals' Residency Act as they are authorized to reside in Kuwait without having to obtain ordinary residency.

128. If a person of undetermined nationality obtains a passport from another State, the General Department for Residency adjusts the status of the person concerned and grants him or her ordinary residency in Kuwait once the person has fulfilled the necessary conditions.

129. With a view to ensuring humane treatment for foreign migrants whose residency permits have expired and who are considered to be in violation of the Residency Act, the Ministry of the Interior has emitted a number of decrees, most recently Decree No. 64 of 2018 and Decree No. 192 of 2018. Under those decrees, persons who are in violation of the Residency Act are allowed to leave the country without paying the fines they have accumulated as a consequence of that violation. They are also given the possibility of returning to Kuwait if they so desire or regularizing their legal situation and renewing their residency within the time limits set forth in the decrees.

130. No foreign national residing in Kuwait is forcibly deported. Foreign nationals are administratively deported from the country, even if they have a valid residence permit, in any of the cases defined in article 16 of the Foreign Nationals' Residency Act and in article 26 bis of the implementing regulations of the Act.

**Statistics regarding persons who left the country without paying fines and those who regularized their status, between 23 February 2018 and 21 April 2018**

<i>Number of persons in violation of the law who left the country without paying fines</i>	<i>Number of persons in violation of the law who regularized their situation</i>	<i>Total</i>
9 755	12 289	22 044

**Paragraph 35**

131. Kuwait has acceded to all international treaties with the exception of the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The State of Kuwait treats all acts involving enforced disappearance as flagrant violations of human rights and has put in place all appropriate safeguards to guarantee fundamental rights and freedoms for every individual. The safeguards include measures to prevent enforced and involuntary disappearances and to prosecute the perpetrators of such acts. Kuwaiti legislation includes provisions that prohibit acts of abduction that may impair or restrict an individual's right to life. The Criminal Code characterizes such acts as punishable offences under criminal law.

132. Accession to the Convention would require adjustments to domestic legislation, and the competent authorities in Kuwait do not consider that the Convention would add anything to its existing commitments to uphold human rights and freedoms and prohibit enforced disappearance. Accordingly, there is currently no need to sign the Convention, especially since Kuwait is already cooperating closely with the Committee on Enforced Disappearances. Kuwait has provided the Committee with all the information it has sought, thereby confirming the State's aspiration to investigate facts and take all necessary measures to prevent and prosecute enforced disappearances.

133. With regard to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Kuwait has studied the Convention and has decided that it is currently more opportune to delay accession. Kuwaiti legislators are at pains to introduce provisions and measures to protect migrant workers and uphold their rights, in line with the country's constitutional and legal system. In addition, Kuwait has ratified seven ILO human rights conventions.

**Paragraph 36**

134. The Durban Declaration and Programme of Action were taken into account when drafting Decree-Law No. 19 of 2012, concerning the protection of national unity.



### **Paragraph 37**

135. The measures taken by Kuwait to combat racial discrimination also revolve around the International Decade for People of African Descent. Article 29 of the Constitution states that all persons have equal human dignity and the same public rights and duties before the law, without discrimination on the grounds of gender, origin, language or religion.

### **Paragraph 38**

136. The State of Kuwait has established a standing national committee for drafting reports and following up on human rights recommendations. The committee is responsible for ensuring the fulfilment of the commitments of Kuwait before the treaty bodies and for submitting periodic reports on time. It consults and engages with civil society organizations whenever such a report is to be drafted.

### **Paragraph 39**

137. Optional declarations are always a matter for States to assess for themselves, depending upon their circumstances. While it might be desirable to make such declarations, it is left to each State to decide if the appropriate conditions exist. The fact that the declaration is optional means that the drafters of the Convention did not wish States to be obliged to make them. Moreover, there are other national mechanisms to investigate any violation of rights under the Convention, first and foremost through recourse to the courts and national human rights agencies.

### **Paragraph 40**

138. Careful consideration will be given to ratifying the amendment adopted at the fourteenth meeting of States parties to the Convention.

### **Paragraph 41**

139. The common core document attached to the combined twenty-fifth and twenty-sixth periodic reports has been updated to bring it into line with the harmonized guidelines on reporting under the international human rights treaties.

### **Paragraph 42**

140. It should be pointed out that information regarding the recommendations contained in paragraphs 14, 20, 26 and 28 (a) was duly submitted within the time limit set by the Committee. A letter (CERD/98th Session/FU/MJA/Ks) from the Chair of the Committee on the Elimination of Racial Discrimination was received on 10 May 2019 commending Kuwait for having replied vis-à-vis those recommendations within one year of the submission of the combined twenty-first to twenty-fourth periodic reports.

### **Paragraph 43**

141. As concerns the Committee's concern to draw attention to the recommendations contained in paragraphs 14, 20, 26 and 28 (a), Kuwait wishes to point out that comprehensive replies to those paragraphs are to be found in the present report.

### **Paragraph 44**

142. As an expression of the respect Kuwait has for its obligations under international treaties, the standing national committee for drafting reports and following up on human

rights recommendations normally posts the reports on the website of the Ministry of Foreign Affairs. It also makes the reports available via local media outlets, both during consultations with NGOs and after the reports have been discussed before the treaty bodies.

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