

(Translated from Arabic)

**I. The cases referred to in the above-mentioned communication and in which Abdulhameed Dashti was convicted:**

**(a) State security case No. 14/2016 (State security criminal case No. 12/2016):**

Proceedings were brought against the said person on the basis of an official complaint by the Kingdom of Saudi Arabia in respect of the abusive statements that he made against the Kingdom during two interviews conducted by the Syrian *Al-Ikhbariya* news channel on 19 March 2016 and by the *Al-Mayadeen* channel on 29 March 2016. The Kingdom requested the institution of legal proceedings against him on the ground that his fallacious statements were detrimental to relations between the Kingdom and the State of Kuwait. The Public Prosecution also received a report to the effect that, in tweets posted through his Twitter account on 23 and 26 March 2016, the said person had insulted the Kingdom of Saudi Arabia and its symbols, had interfered in its internal and external affairs by accusing it of interference in the internal affairs of the State of Kuwait, and had thereby adversely affected relations between the two States and posed the risk of a severance of diplomatic relations. He had also shown disrespect for the symbols of the Public Prosecution and had insulted its members.

The Public Prosecution initiated its investigation of those allegations after the Kuwaiti National Assembly agreed, on 24 May 2016, to a request for revocation of the said person's parliamentary immunity in accordance with the provisions of article 111 of the Kuwaiti Constitution and articles 20 and 21 of the Act of 1963 promulgating the Rules of Procedure of the National Assembly. The Public Prosecution finally decided to indict him and referred him to the Criminal Court for trial on the following criminal charges:

1. Engagement, without the Government's permission, in hostile acts against the Kingdom of Saudi Arabia by making accusations against the latter, through the Syrian *Al-Ikhbariya* and *Al-Mayadeen* satellite channels, the Saudi Arabian news agency SANA and tweets posted on the Twitter social networking site, which were likely to expose the State of Kuwait to the risk of a severance of diplomatic relations with the Kingdom;
2. Dissemination abroad of false and tendentious news and rumours concerning the internal situation in his country, Kuwait, in a manner likely to diminish the prestige and standing of the State and harm its national interests;
3. Encouraging people to join *Hezbollah*, which is an illegal group;
4. Showing overt disrespect for judges in such a way as to cast doubt on their integrity and their commitment to the provisions of the law;
5. Insulting the Attorney General and members of the Public Prosecution by posting tweets that cast doubt on their integrity and impartiality;
6. Misuse of a means of telecommunication.

The Public Prosecution called for the imposition of penalties in accordance with the provisions of article 74 and article 147, paragraph 1, of the Penal Code; article 4, paragraph 1, article 15 and article 30 of Act No. 31/1970 amending certain provisions of the Penal Code promulgated under Act No. 16/1960; article 6 and article 13, paragraphs 1 and 2, of the Anti-Cybercrime Act No. 63/2015; article 21, paragraph 2, and article 27, paragraph 3, of the Press and Publications Act No. 3/2006; and article 70, paragraph 1 (a) (ii), of Act No. 37/2014 concerning the establishment of the Telecommunications and Information Technology Regulatory Authority.

On 27 July 2016, the Criminal Court sentenced the said convicted person, in absentia, to a non-suspended penalty of 3 years' penal servitude on the first charge; a non-suspended penalty of 3 years' penal servitude on the second charge; a non-suspended penalty of 5 years' penal servitude on the third charge; and a non-suspended penalty of 6



months' penal servitude, together with a fine of 2,000 dinars and confiscation of the equipment used in the commission of the offences, on the fourth, fifth and sixth charges.

On 3 August 2016, the Public Prosecution filed an appeal for the imposition of heavier penalties which is scheduled to be heard on 15 December 2016.

**(b) State security case No. 16/2016 (State security criminal case No. 14/2016):**

Proceedings were brought on the basis of a complaint by the Embassy of the Kingdom of Bahrain expressing its indignation and its strong condemnation of the insulting remarks which Abdulhameed Abbas Hussein Dashti had allegedly made against the Kingdom in tweets posted through his Twitter social networking account in which he accused the Bahraini authorities of ignorance and fabrication of false charges for which they deserved to be imprisoned. The enquiries conducted by the security authorities in the Ministry of the Interior confirmed that the said person had committed hostile acts by interfering in the internal affairs of the Kingdom of Bahrain in a manner that might adversely affect relations between the two countries and lead to a severance of diplomatic relations between them.

The Public Prosecution initiated its investigation of those allegations after the Kuwaiti National Assembly agreed, on 24 May 2016, to a request for revocation of the said person's parliamentary immunity in accordance with the provisions of article 111 of the Kuwaiti Constitution and articles 20 and 21 of the Act of 1963 promulgating the Rules of Procedure of the National Assembly. The Public Prosecution finally decided to indict him and referred him to the Criminal Court for trial on the following criminal charges:

1. Engagement, without the Government's permission, in hostile acts against the Kingdom of Bahrain by posting tweets through his Twitter social networking account in which he described the Kingdom as being sectarian, tyrannical and autocratic and accused it of violating human rights, thereby exposing the State of Kuwait to the risk of severance of diplomatic relations with the Kingdom;
2. Misuse of a means of telecommunication.

The Public Prosecution called for the imposition of penalties in accordance with the provisions of article 4, paragraph 1, of Act No. 31/1970 amending certain provisions of the Penal Code, and article 70, paragraph 1 (a), of Act No. 37/2014 concerning the establishment of the Telecommunications and Information Technology Regulatory Authority.

On 27 July 2016, the Criminal Court sentenced the said convicted person, in absentia, to a non-suspended penalty of 3 years' penal servitude and confiscation of the equipment used in the commission of the offences.

On 3 August 2016, the Public Prosecution filed an appeal for the imposition of heavier penalties which is scheduled to be heard on 24 November 2016.

During the procedures for the investigation and public trial of the accused, all the legally prescribed safeguards, in accordance with internationally recognized standards, were observed in order to enable the accused to enter pleas and present his defence. However, he remained a fugitive outside the country with effect from 3 March 2016 even though he had been served legal notice of the date set for the hearing of the cases in which he was charged. He could appeal the judgments handed down against him in absentia by filing an objection thereto, in accordance with article 188 of the Code of Criminal Procedure, within one week from the date of his arrest or from the date on which he was served notice of the sentence imposed on him in absentia.

**II. The legal basis for revoking the parliamentary immunity of the accused, Abdulhameed Abbas Hussein Dashti:**

Article 111, paragraph 1, of the Kuwaiti Constitution and article 20, paragraph 1, and article 21, paragraphs 1 and 2, of Act No. 21 of 1963 promulgating the Rules of Procedure of the National Assembly, which stipulate that: "During a parliamentary term, it shall not be permissible, except in cases of *flagrante delicto*, to investigate, search, arrest, detain or institute any other criminal proceedings against a member without the Assembly's

permission. Any request for permission to revoke a member's immunity must be submitted to the Speaker of the Assembly by the Minister concerned ... and the Minister must transmit, with the request, the case file under which the proceedings are to be instituted."

The Public Prosecution followed these procedures since, as already indicated, the accused was a member of the National Assembly.

### **III. Under article 36 of the Constitution of the State of Kuwait promulgated in 1962:**

Freedom of opinion and scientific research is guaranteed and every person has the right to express and propagate his opinion orally, in writing, or by any other means, in accordance with the legally specified conditions and procedures. This is consistent with the letter and the spirit of the International Covenant on Civil and Political Rights to which the State of Kuwait has acceded and article 19 of which stipulates that: "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice" (para. 2) and "The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (*ordre public*), or of public health or morals." These rights, as regulated by Kuwaiti law, were respected.

### **IV. With regard to the legal basis for revoking Mr. Dashti's immunity:**

The National Assembly of the State of Kuwait has provided the following clarifications:

1. Article 111 of the Constitution of the State of Kuwait, which was promulgated on 11 November 1962, stipulates that: "During a parliamentary term, it shall not be permissible, except in cases of *flagrante delicto*, to investigate, search, arrest, detain or institute any other criminal proceedings against a member without the Assembly's permission." The National Assembly's Rules of Procedure, promulgated in Act No. 12/1963, specify the procedures for the granting of such permission by stipulating that any request for revocation of a member's immunity must be submitted to the Speaker of the Assembly by the Minister concerned and the case file under which criminal proceedings are to be instituted must be attached to the request. The Speaker of the Assembly refers the request to the Legislative and Legal Affairs Committee for study and submission of its report thereon to the Assembly. The report is discussed before the Assembly, which is the only body competent to take a final decision accepting or rejecting the request for revocation of immunity in the light of the grounds on which the Committee's report is based (arts. 19-23).

2. Under the Rules of Procedure, the member concerned must be given an opportunity to express his viewpoint and refute the grounds on which the request for revocation of his immunity is based by asking to be present at the meeting during which the Committee discusses the request. If the Committee's report recommends approval of the revocation of immunity, he can challenge the Committee's opinion during the Assembly's discussion of the report. The Rules of Procedure also emphasize that the Committee and the Assembly should not look into the question of the existence or non-existence of evidence from the legal standpoint; they should confine their discussion to the question of the extent to which the criminal proceedings might be a stratagem intended to prevent the member from performing his duties in the Assembly and, if the Assembly is satisfied that this is not the case, it should give permission for the institution of the proceedings.

3. During the fourteenth legislative session (6/8/2013-16/10/2016), the Speaker of the National Assembly received 23 requests for revocation of the parliamentary immunity of one of its members, Dr. Abdulhameed Abbas Hussein Dashti. The Assembly approved 17 of these requests and rejected 6 others (as shown in the list appended hereto).

## SECRET AND CLASSIFIED

## List of requests for revocation of the parliamentary immunity of

Dr. Abdulhameed Abbas Dashti

	Subject	Date of referral	Report No.	Date of report	Committee decision	Assembly decision
Second regular session						
1	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Hussein Dashti in Suq al-Mal prosecution case No. 11/2012, recorded as felonies investigation case No. 276 of 2013	21/1/2014	31	29/1/2014	Non-approval 3:2	Non-approval of revocation
2	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in Kuwait City case No. 559/2012, recorded as misdemeanours investigation case No. 17 of 2013	11/2/2014	48	3/3/2014	Non-approval 3:2	Non-approval of revocation
3	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in Bayan misdemeanours case No. 6447/2012	20/3/2014	60	30/3/2014	Non-approval 4:1	Non-approval of revocation
4	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in Kuwait City case No. 338/2014 — Salhiya misdemeanours case No. 134/2014	11/6/2014	120	22/6/2014	Non-approval	Non-approval of revocation
Third regular session						
5	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in Salhiya misdemeanours case No. 417/2014, recorded as Kuwait City case No. 767/2014	9/12/2014	13	16/12/2014	Non-approval 3:1	Approval of revocation
6	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in State security case No. 10/2014 — State security criminal case No. 10/2014	16/12/2014	47	28/12/2014	Non-approval 3:1	Approval of revocation
7	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in Kuwait City case No. 768/2014 — Salhiya misdemeanours case No. 416/2014	19/1/2015	63	22/1/2015	Approval	Approval of revocation
8	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in Ahmadi case No.	27/1/2015	74	9/2/2015	Non-approval	Non-approval of revocation

	978/2014 — Fahaheel misdemeanours case No. 429/2014					
9	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in Kuwait City case No. 935/2013 (Salhiya misdemeanours case No. 25/2014 — delegated by decision of the Misdemeanours Court issued on 12/1/2015)	17/2/2015	84	5/3/2015	Non-approval 3:1	Approval of revocation
10	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in Kuwait City case No. 328/2015 — Kaifan misdemeanours case No. 24/2015	18/5/2015	131	1/6/2015	Non-approval 3:1	Non-approval of revocation

## Fourth regular session

11	Request by the Public Prosecution for revocation of the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in State security case No. 10/2016	10/3/2016	37	13/3/2016	Approval	Approval of revocation
12	Request by the Public Prosecution for revocation of the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in enforcement case No. 32/2016, recorded as misdemeanours investigation case No. 20/2016	13/3/2016	39	14/3/2016	Approval	Approval of revocation
13	Request by the Public Prosecution for revocation of the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in case No. 0721502393 pursuant to the GCC convention on the execution of judgments, letters rogatory and service of judicial notices	15/3/2016	40	28/3/2016	Approval	Approval of revocation
14	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in ordinary misdemeanours case No. 9196/2015 — Salhiya 423/2013	22/3/2016	41	28/3/2016	Approval	Approval of revocation
15	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in State security case No. 46/2015, recorded as State security criminal case No. 54/2015	4/4/2016	42	11/4/2016	Approval 3:1	Approval of revocation
16	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in Al-Farwaniyah case No. 139/2016, recorded as Al-Firdaws misdemeanours case No.	31/3/2016	43	11/4/2016	Approval 3:1	Approval of revocation

	644/2016					
17	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in State security case No. 14/2016, recorded as State security criminal case No. 12/2016	2/5/2016	56	19/5/2016	Approval 4:2	Approval of revocation
18	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in State security case No. 16/2016, recorded as State security criminal case No. 14/2016	4/5/2016	57	19/5/2016	Approval 4:2	Approval of revocation
19	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in media prosecution case No. 558/2016, recorded as cybercrime investigation case No. 556/2016	26/5/2016	67	6/6/2016	Approval 3:1	Approval of revocation
20	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in State security case No. 19/2016, recorded as State security criminal case No. 17/2016	29/5/2016	68	6/6/2016	Approval 3:1	Approval of revocation
21	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in media prosecution case No. 533/2016, recorded as Al-Farwaniyah misdemeanours investigation case No. 449/2016	21/6/2016	74	22/6/2016	Approval 3:1	Approval of revocation
22	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in State security case No. 27/2015, recorded as State security criminal case No. 31/2015	26/6/2016	76	3/7/2016	Approval 3:1	Approval of revocation
23	Request for permission to revoke the parliamentary immunity of National Assembly member Dr. Abdulhameed Abbas Dashti in State security case No. 29/2015, recorded as State security criminal case No. 30/2015	26/6/2016	77	3/7/2016	Approval 3:1	Approval of revocation