

(Translated from Arabic)

**Reply of the Kingdom of Saudi Arabia about the situation of the domestic worker
Riyass of 12 July 2019 No. UA SAU 12/2019**

1. With regard to the request to provide any additional information or comments on the allegations

The information contained in the appeal is inaccurate. The procedures for her recruitment as a domestic worker in the Kingdom of Saudi Arabia were applied according to the law. She was contracted to work in Saudi Arabia via a licensed and approved recruitment bureau, the Injaz Recruitment Office, which has been operating for 37 years. She entered Saudi Arabia legally on work visa No. 6060607932, issued on 19 Ramadan A.H. 1440 (24 May A.D. 2019) and was duly issued with residency permit No. 2472833728. She has been contacted to confirm that her employer is not treating her badly or depriving her of food and drink. It was also confirmed that she has been able to visit hospital, that she is receiving health care and, furthermore, that she has not been subjected to ill-treatment or sexual exploitation. In addition, it was ascertained that she has received all her salary payments from the date she entered Saudi Arabia on 3 Shawwal A.H. 1440 (6 June A.D. 2019). Her passport was in her possession when she entered Saudi Arabia and her whereabouts are known, being the residence of her employer in the city of Riyadh. When she was interviewed, she stated that she had no relation with an Indian citizen by the name of [REDACTED]

With regard to the claim made in the appeal to the effect that the Government was informed about the allegations through the Embassy of Saudi Arabia to the United Kingdom on 1 July 2019, it should be noted that the Saudi Embassy in London has no knowledge of any such matter.

2. With regard to the request to indicate which measures the Government has taken since 1 July to locate [REDACTED] and to bring her to safety

When the appeal was received, the competent authorities undertook to discover her whereabouts and contact her and to summon her employer. She gave a statement about the allegations regarding her in the presence of an interpreter and a representative of the Indian Embassy in Riyadh. She denied the truth of the allegations contained in the appeal, as set forth in the response to question 1 above. It was verified that she was safe and had not been subjected to ill-treatment or sexual exploitation, or deprived of food, drink and medical care. She is not – as alleged in the appeal – a victim of human trafficking. In this way, the allegations were shown to be untrue. She then expressed the desire to return to her own country, a wish that was put into effect when she did return to her country on 12 Dhu al-Hijjah A.H. 1440 (13 August A.D. 2019) on Saudi Arabian Airlines flight No. SA766.

3. With regard to the request to provide detailed information on the measures taken by Saudi Arabia – in law and in practice – to ensure the effective protection of migrant workers, including women domestic workers, from exploitation and abuse

The Employment Act states that workers' dignity must be safeguarded, within a healthy working environment. It also clarifies the reciprocal rights and duties of each party in working relationship. Under article 61, employers must not employ workers as forced labour or withhold their wages or any part thereof without a court order. Employers must treat workers with due respect and refrain from offending their dignity and religion, by word or deed. They shall give the workers the time required to exercise the rights provided for in the Act without making any corresponding deduction from their wages. They may, however, regulate the exercise of this right so that the workflow is not disturbed. They are also required to provide officials of competent bodies with the facilities they require to undertake any task related to the enforcement of the provisions of the Employment Act. Under article 8 of the Act, any condition, waiver or compromise in respect of a worker's rights is null and void unless more favourable to the worker. In addition, the Act gives workers the right to leave their employment without informing their employer, while retaining their statutory rights in full, even if the employer does not agree. This applies in a



number of cases, including where employers, a member of their family or a manager commits a violent assault against or behaves indecently towards workers or members of their family; if employers or managers bully workers or treat them in a cruel or humiliating way; or if employers or their representatives, by their actions, drive workers to leave, particularly if these actions involve bullying or treatment that breaches the terms of the contract.

A number of ministerial decrees have been issued to protect migrant workers in accordance with the Employment Act:

- Ministerial Decree No. 1/738 of 16 Jumada I A.H. 1425 (4 July A.D. 2004), which prohibits all forms of trafficking in persons, including selling work visas; receiving payment for hiring a worker; receiving payment for entry visas, exit/re-entry visas, residence permits and work permits; breaching contractual obligations; treating workers inhumanly or immorally; and employing and exploiting children. The Decree stipulates that, in addition to the penalties provided for in the appropriate laws, a person committing any of the above offences shall be banned from recruiting migrant workers for a period of five years; in the event of a repeat offence or the commission of two or more offences, the Minister of Labour and Social Development shall issue an order banning the offender from recruiting migrant workers for life;
- Ministerial Decree No. 1/2370 of 18 Ramadan A.H. 1431 (28 August A.D. 2010), which prohibits discrimination between male and female workers in respect of wages for work of equal value;
- Ministerial Decree No. A/1998 of 29 Jumada II A.H. 1432 (2 June A.D. 2011) promulgating the regulations for recruitment agencies, which contains several articles relating to the protection of migrant workers;
- Ministerial Decree No. 2425 of 3 Jumada II A.H. 1434 (14 April A.D. 2013), which defines the cases where services to an employer may be suspended, with their resumption dependent on the situation being remedied in a legal manner. The Decree addresses the following situations: failure of a business to comply with the wages protection programme, employment of women or juveniles in hazardous jobs or harmful industries and failure on the part of a business to take proper precautions to protect and ensure the safety of workers against work-related hazards and illnesses and when operating equipment;
- Ministerial Decree No. 803 of 12 Safar A.H. 1434 (26 December A.D. 2012), which concerns the wages protection programme. The programme, which is computerized, involves businesses paying wages through local banks and submitting employee wage details to the Ministry of Labour and Social Development. The programme monitors the data on monthly wage payments and compares this with the data recorded in order to ensure that employers pay wages on time and in full. The Ministry penalises businesses that fail to apply the mechanism set out in the Decree;
- Ministerial Decree No. 3337 of 5 Rajab A.H. 1435 (5 May A.D. 2014) stipulates that workers may not be made to work under direct sunlight between midday and 3 p.m. from the twenty-fifth day of Gemini (15 June) to the twenty-fourth day of Virgo (15 September) in each solar year;
- Ministerial Decree No. 4786 of 28 Dhu al-Hijjah A.H. 1436 (12 October A.D. 2015), which envisages fines for employers who retain workers' passports without their consent.

The Ministry of Labour and Social Development is responsible for monitoring the implementation of regulations and decrees to safeguard and protect the rights of migrant workers. It does this through a variety of mechanisms, including:

(a) Workplace inspection

Specialists undertake field visits to places of work to determine levels of effective compliance with the provisions of the Employment Act and its implementing regulations, including those pertaining to working hours, wages, social services and protection against occupational accidents, illnesses and injury. They also ascertain the enforcement of ministerial decrees issued in implementation of the Employment Act. A workplace

inspection manual has been prepared to clarify what businesses have to do to comply with the Employment Act and raise the level of awareness of businesses and workers. Operations rooms have been established to support labour inspectors and improve enforcement of the Act.

(b) Migrant Workers Welfare Department

This Department was created to provide for the welfare of migrant workers in their professional relationships, overcome any obstacles that might arise in those relationships and regularize the workers' situation. The Department takes severe measures against employers who fail to take action to resolve the problems of their workers. Those measures include suspending services, transferring workers' services at their request without reference to the employer, providing workers with access to means of redress and establishing a complaints mechanism.

The regulations pertaining to domestic workers and persons of like status represents a statutory framework, which governs the relationship between the employer and the domestic worker and defines the rights and duties of each with respect to the other. Among the more significant provisions, the regulations affirm that employers may not assign domestic workers to undertake tasks that are not envisaged by contract, that are hazardous to health or that violate workers' dignity. Similarly, employers may not assign workers to work for third parties. Moreover, employers are required to pay workers the agreed wage without delay at the end of each month and to provide written receipt of payment. Domestic workers are to be provided with suitable accommodation and are allowed to enjoy a daily rest period and weekly leave, as agreed by both parties. In the event of illness, workers are entitled to sick leave with pay. In addition, workers are entitled to a month's paid leave once they have completed two years in the service of the employer, and to an end-of-service bonus, upon expiry of their contract, once they have completed four years in the service of the employer. A number of sanctions are applicable to either of the two parties who violate any of the provisions of the regulations. Employers may not assign domestic workers to undertake tasks that are not envisaged by contract, that are hazardous to health or that violate workers' dignity. It should be pointed out, moreover, that anyone may appeal to the courts to remedy a grievance or a rights violation. In implementation of the regulations, 36 committees have been formed by ministerial decree to settle disputes involving domestic workers and persons of like status across Saudi Arabia, and the Ministry of Labour and Social Development has set up a hotline (19911) to receive complaints in eight languages. The relevant bodies continue to raise awareness and to promote and protect workers' rights by distributing booklets in various languages, explaining employment law and the concepts of human trafficking and forced labour. These are distributed to Saudi embassies abroad and to embassies of relevant countries in Saudi Arabia. Furthermore, rights organizations conduct media campaigns as part of a programme to disseminate a culture of human rights. In addition, the competent bodies in Saudi Arabia conclude bilateral agreements with certain States, requiring workers of both sexes to take training courses to familiarize themselves with their rights and duties.

4. With regard to the request to indicate which measures the Government is taking to regulate private recruitment agencies and to criminalize domestic servitude

The Ministry of Labour and Social Development has taken a number of measures in addition to those described in the reply to question 3 above. They include the following:

(a) Online registration of contracts

This enables employers to submit and update information about the contracts of workers in the private sector. It also gives the workers themselves the opportunity to verify the accuracy of the data regarding them via the contract registration service on the online service portal of the General Organization for Social Insurance.

(b) Mechanism for receiving domestic workers

Under Ministerial Decree No. 172489 of 14 Ramadan A.H. 1440 (19 May A.D. 2019), a number of amendments were introduced into the system for receiving domestic workers who enter Saudi Arabia for the first time as well as into the exit/re-entry system. Under the amendments, which are being applied progressively across the country:

- Responsibility for receiving domestic workers who arrive in the country to work for the first time lies fully with recruitment companies and bureaus; the workers are then delivered into the care of their employers on the basis of a contract agreed between the two parties;
- Responsibility for receiving domestic workers under the exit/re-entry system lies with the employer;
- A contract is agreed that regulates relations between employers and recruitment bureaus under which the recruitment bureau must inform the employer 24 hours in advance of the arrival of a domestic worker who is coming into the country for the first time; the worker is then to be delivered into the care of the employer within 24 hours of arrival.

(c) Units to protect and support domestic workers have been established on all 13 branch offices of the Ministry of Labour and Social Development. Their job is to monitor and record violations to domestic workers' rights; provide information and legal and social support services to victims of such violations; ensure that dealings between workers and their employers are conducted on a voluntary basis; improve transparency vis-à-vis job opportunities and contracts; and protect the migrant workers from discrimination on the grounds of nationality, religion, political views or any other factor.

A number of ministerial decrees have been issued with a view to regulating the labour market. They aim to improve various technical, procedural and legislative aspects:

(a) An online system for the issuance of visas has been established, directly controlled by the Ministry of Labour and Social Development and known as Musaned. Users can request the issuance of an electronic visa either by visiting the website or by going to the nearest service provider office in the country's provinces and governorates. The system allows users to learn about the regulations pertaining to domestic workers – issued pursuant to Council of Ministers Decree No. 310 of 7 Ramadan A.H. 1434 – and about their rights with recruitment companies and bureaus under a unified contract that regulates mediation and the provision of worker services.

(b) The service providers' website Musaned has been improved. It lists the services provided by recruitment agencies including the amounts they charge for each profession and nationality. It also has an online contract service between the employer and the mediation bureau under which payments can be made electronically. This protects the rights of customers by ensuring that they do not deal with unlicensed recruitment companies and bureaus, and it enables contractual operations to be monitored automatically. This service leads to greater competition among service providers and facilitates the task of monitoring and follow-up on the part of the Ministry.

(c) Contracts between employers and recruitment bureaus can be launched online.

(d) Thanks to the Musaned contract registration system, there is an automated link between bureaus in countries of origin abroad and domestic bureaus and companies inside Saudi Arabia. This system is directly linked to the Ministry of Foreign Affairs' Enjaz system thereby enabling the Ministry to monitor the international and local contractual mechanism. This set-up is considered to be a pioneer among recruitment systems around the world.

(e) There is a call and reporting centre for the submission of complaints against service providers. Employers can call in to file complaints which are then followed up by the Ministry of Labour and Social Development, which verifies whether or not the matter can be resolved or closed within the statutory time limit, using its internal electronic system.

(f) A directorate has been established to supervise recruitment companies and bureaus and to verify service providers' compliance with regulations and guidelines.

(g) Inspection visits by the inspection agency to bureaus and companies have been intensified across the country in order to ensure that they are abiding by regulations and guidelines.

(h) An electronic blocking system has been developed in Musaned whereby recruitment bureaus and companies in Saudi Arabia and bureaus in countries of origin can

be blocked if they are in contravention of the electronic system. They cannot then access the online services until they have rectified the violation.

5. With regard to the request to provide information on the availability of complaint mechanisms for migrant workers in Saudi Arabia who may be subjected to abuse and exploitation

Article 26 of the Basic Law of Governance states: “The State shall protect human rights in accordance with Islamic sharia”, while article 8 states: “Governance in the Kingdom of Saudi Arabia shall be based on justice, consultation and equality, in accordance with Islamic sharia”. To ensure the implementation of these and other principles, mechanisms of oversight and redress have been established. Chief among these is the judiciary, which is the principal guarantor of human rights. In order to guarantee equality before the law for all without discrimination, article 47 of the Basic Law of Governance states: “All people, either citizens or residents of the Kingdom of Saudi Arabia, have an equal right to take legal action”.

Complaint mechanisms for migrant workers in Saudi Arabia who may be subjected to abuse and exploitation include the following:

- The courts (labour tribunals and criminal courts);
- Commissions that rule on violations and disputes pertaining to domestic workers and persons of like status;
- The “Friendly” system.

The system – the purpose of which is to automatize procedures for the amicable settlement of financial disputes – performs a number of tasks: presentation of applications for cases online; review of those applications; referral to labour and enforcement tribunals in the Ministry of Labour; examination of cases by customer service officials; facility for individuals and the business sector to examine cases via the online service portal, etc.
