

**Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression**

REFERENCE: AL
KWT 4/2015:

16 July 2015

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pursuant to Human Rights Council resolution 25/2.

In this connection, we would like to bring to your attention information we have received concerning **the revocation of the broadcasting and publication licenses of the Al Watan TV Channel and the Dar Al Watan Journalism Printing and Publishing Company on 4 June 2015 and 18 January 2015 respectively** and subsequent closure of their premises.

According to the information received:

On 4 June 2015, the Commerce and Information Ministry of the Kingdom of Kuwait revoked the license of the Al Watan TV channel, located in Kuwait City. The reasons provided for this decision were reportedly similar to those given by the authorities in Administrative Decision No. 34/2015 of 18 January 2015, revoking the license of the Dar Al Watan Journalism Printing and Publishing Company, another legal entity belonging to the same media holding. In both cases, the authorities reportedly alleged that the respective entities had not met their financial and commercial requirements in order for them to continue to broadcast and publish. However, Kuwaiti national legislation does not reportedly refer to specific financial requirements as a basis for revoking a media license.

Despite ongoing judicial procedures to challenge the legality of the revocation of the license of the Dar Al Watan Journalism Printing and Publishing Company, its premises were closed on 19 January 2015. In addition, the authorities allegedly did not comply with a judicial decision of the Kuwaiti Court of First Instance of 11 February 2015 rescinding the above-mentioned ruling against the newspaper agency, and it has since remained closed.

Similarly, after the license of the Al Watan TV channel was revoked, a task force from the Ministry of the Interior Affairs reportedly closed the television station and removed the property of its employees, without the necessary court decision.

While I do not wish to prejudge the accuracy of these allegations, I express concern at the impact of the decisions to revoke the licenses of and close the Al Watan TV channel and the Dar Al Watan Printing and Publishing Company for the freedom of the media in Kuwait. Although these decisions were suspended by the Kuwaiti judiciary, the authorities kept the operations of both entities closed in violation of both domestic legislation and international human rights law.

In addition to the Annex attached to this letter which cites international human rights law and standards in connection to the above allegations and concerns, I would like to take this opportunity to refer your Excellency's Government to article 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded by the Kingdom of Kuwait on 21 May 1996, and article 19 of the Universal Declaration of Human Rights, establishing the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds.

I would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of all media workers to legitimately exercise their right to the freedom of expression and opinion and the right of all citizens to freely access information, including through the media, which are of central importance in the effective functioning of a vibrant democracy.

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. I would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above mentioned allegations.
2. Please provide detailed information on the legal grounds invoked for the decisions to revoke the licenses of the Al Watan TV Channel and the Dar Al Watan Journalism Printing and Publishing Company and close their premises, indicating how these are compatible with international human rights norms and standards, in particular article 19 of the ICCPR and article 19 of the UDHR.
3. Please provide detailed information on the measures taken to implement the judicial decision of 11 February 2015, in order to resume the functioning of Al Watan TV Channel and the Dar Al Watan Journalism Printing and Publishing Company.

I would appreciate receiving a response within 60 days.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Annex
Reference to international human rights law

In connection with the above alleged facts and concerns, I would like to refer your Excellency's Government to the right to freedom of opinion and expression as set forth in article 19 of the Universal Declaration of Human Rights and Article 19 of the ICCPR, which provides that "[e]veryone 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." I would like to remind your Excellency's Government that any restriction to this right shall be provided by law; may only be imposed for one of the grounds set out in article 19 and subparagraphs (a) and (b) of paragraph 3 and must conform to the strict tests of necessity and proportionality.

The Human Rights Committee, in its General Comment No. 34 provides that States parties should ensure that public broadcasting services operate in an independent manner and that, in this regard, they should guarantee their independence and editorial freedom. States should also provide funding in a manner that does not undermine the independence of the media.

Also, I would like to refer your Excellency's Government to paragraph 79 of the 2012 report of the previous Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, where he expresses his concern "at the continuing existence and use of criminal laws against journalists and members of the media, which are often used by authorities to suppress 'inconvenient' information and to prevent journalists from reporting on similar matters in the future" as well as the "chilling effect which stifles reporting on issues of public interest". The Special Rapporteur has recommended in paragraph 104 of this report that States "as part of their positive obligation to promote the right to freedom of expression ... should give full political support to strengthening media freedom and ensuring that independent, plural and diverse media can flourish. Any laws regulating the work of the media should adhere to the highest international standards on freedom of opinion and expression and allow uninhibited debate in the media, in line with principles of diversity and plurality" (A/HRC/20/17).