

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 34/18 and 32/32.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **administrative and criminal proceedings brought against the Center for Defending Freedom of Journalists (CDFJ) and its Chief Executive Officer, allegedly without legal basis and with the effect of discrediting the organization before the public opinion. We also like to draw your attention to the alleged subjection of the organization to disproportionate and unnecessary control over its sources of funding.**

The CDFJ is a Jordanian non-governmental organization which works, both in Jordan and in other Arab countries, to foster the capabilities of journalists, to provide them with quality legal assistance, and to carry out research on issues related to the press and media in the Middle East. CDFJ also conducts a continuous monitoring of the situation of press freedom in Jordan, and issues a monthly report on cases of alleged violations, such as bans from publishing, blocking of websites, prior censorship, and physical attacks, threats, arbitrary arrest and mistreatment against journalists.

CDFJ was registered before the Companies Control Department (CCD) in 1998 as a civil partnership company, specifying in its contract of incorporation that all funds received by the company should be spent to achieve its objectives, and no profits should be distributed among partners.

According to the information received:

On 13 March 2017, CDFJ received a notification from the CCD announcing its decision to conduct an audit on its accounts. CDFJ replied to the notification stating its willingness to cooperate. Following the visit of CCD inspectors to the premises of CDFJ on 19 March 2017, the audit committee requested from CDFJ the original documents of its vocational license, its lease contract, its internal regulations and financial policies, all grants and funds received by the company as well as details of expenditure, and the financial statements of CDFJ since its establishment. CDFJ responded to the requests of the Audit Committee providing financial information from 2012 until 2016, alleging that the applicable Jordanian

legislation and its own approved regulations do not compel it to keep financial records predating 2012.

On 5th of June, the executive president of CDFJ met with the head of CCD and the director of its legal department to explain their view that the request exceeded CDFJ's legal obligations. After the meeting, the head of CCD requested a letter explaining CDFJ's position, which was sent to him on June 2th. During the following months, CDFJ received no further notification from the authorities.

On 9 September 2017, without previous notice, the newspaper Ad-Dustour published on its front page a news report entitled "Companies Control Department sends CDFJ file to General Prosecutor", and included a copy of the official letter by CCD addressed to CDFJ, notifying its decision to request criminal proceedings against it. The main accusation against CDFJ allegedly concerns the conduct of activities reserved for non-profit organizations while being a civil partnership company, namely the receipt of foreign funding. The lawyers of CDFJ have claimed however that there is no provision prohibiting civil companies from receiving internal and external funding.

On 10 September 2017, CDFJ received by mail a letter dated 28 August 2017 from the CCD, requesting it to stop accepting funding from any external or internal entity, to request the Ministry of Interior to modify the company's status to that of non-profit organization, and to correct its data and documents, under a warning of criminal liability and cancellation of the company's registration.

On October 30, 2017, the Chief Executive Officer of CDFJ appeared before the General Prosecutor of Amman, after being summoned. During the hearing, he was formally presented with charges under Articles 273/B and Article 278/4 / A of the Companies Law, relating to the non-compliance with the objectives of the company and to the filing of financial statements not reflecting reality. If convicted, the sanctions could amount to a period of one to three years imprisonment and a fine of one thousand to up to ten thousand Jordanian dinars. The Chief Executive Officer denied the accusations and contended that there is no provision in the Companies Law prohibiting civil partnership companies from receiving local or foreign funds, and that CDFJ activities are implemented in compliance with the objectives set forth in its memorandum of association and statutes.

CDFJ has expressed its fear that the modification of its status requires obtaining the formal approval of the Ministry of Interior as well as that of other security agencies, which are free to refuse it. Concerns have also been expressed regarding the legal framework of foreign funding control of non-profit organizations, which requires them to obtain approval by the Ministry of Social Development by providing extensive information about the specific project being funded and demonstrating that it accords with Jordan's national and developmental goals. In

assessing requests, the Ministry is allegedly not required to provide any justification for its decision.

We express our concern at the administrative and criminal proceedings brought against the CDFJ and its Chief Executive Officer under accusations of conducting activities contrary to the objectives of the company, receiving unauthorized funding, and of submitting financial statements with false information. In particular, we are concerned that these accusations, which come after 19 years of operation without incident or official complaint, could have the effect of silencing CDFJ's denunciation of violations to press freedom and discrediting the organization before the public opinion. Similarly, we are concerned that the legal framework of funding control of non-profit organizations, to which CDFJ will reportedly be subject to is over burdensome and subject to unbound discretion by the relevant authorities.

While we do not wish to prejudge the accuracy of these allegations, they would appear to be, if confirmed, in contravention of the rights to freedom of opinion and expression as well as to freedom of association under articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), which was ratified by Jordan on 28 May 1975. These articles protect everyone's right to seek, receive and impart information and ideas of all kinds, regardless of frontiers and through any media, as well as the right to freely form associations.

As has been interpreted by the Human Rights Committee in its General Comment 34 (CCPR/C/GC/34), article 19's guarantees extend especially to political discourse, commentary on one's own and on public affairs, discussion of human rights and journalism, among others (paragraph 11). Article 19 also protects all forms of expression and the means of their dissemination, including all forms of audio-visual as well as electronic and internet-based modes of expression (paragraph 12). The UN General Assembly and Human Rights Council have each repeatedly emphasized that human rights apply both offline and online (A/RES/68/167 and A/HRC/RES/12/16). General Comment 34 also notes that "any restrictions on the operation of websites, blogs or any other internet-based (...) information dissemination system (...) are only permissible to the extent that they are compatible with paragraph 3". It adds that "it is also inconsistent with paragraph 3 to prohibit a site or an information dissemination system from publishing material solely on the basis that it may be critical of the government or the political social system espoused by the government" (paragraph 43).

Regarding the right to freedom of association, we would also like to refer to Human Rights Council resolution 24/5 (operative paragraph 2), in which the Council "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of

association are in accordance with their obligations under international human rights law.”

Finally, we would like to recall the right of every person to a fair trial under articles 14 and 15 of the ICCPR. These articles determine that all persons shall be equal before the courts and tribunals, that everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law, and that no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence at the time when it was committed.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we 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 comprehensive information on the nature and the legal basis of the different procedures that are currently taking place against the Center for Defending Freedom of Journalists and its Chief Executive Officer, and explain how these are compatible with articles 19 and 22 of the ICCPR.
3. Please explain what measures have been adopted to ensure that the guarantees of due process under articles 14 and 15 of the ICCPR are respected and upheld during the course of the different legal proceedings against Center for Defending Freedom of Journalists and its Chief Executive Officer.
4. Please explain the objective of the oversight regime over funding control of non-profit organizations in Jordan and explain how its mechanisms are a necessary and proportional means to secure this objective. Similarly, please explain the measures in place to guarantee that oversight is conducted in an independent and transparent manner by the authorities.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we urge your Excellency's Government to take all necessary measures to ensure that the right to freedom of expression is fully respected in Jordan. Moreover, we request that your Excellency's Government adopt effective measures to prevent future restrictions on internet services.

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

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

Annalisa Ciampi
Special Rapporteur on the rights to freedom of peaceful assembly and of association