United Nations CCPR/C/JOR/CO/4/Add.1

International Covenant on Civil and Political Rights

Distr.: General
20 August 2014
English
Original: Arabic

Human Rights Committee

Concluding observations on the fourth periodic report of Jordan

Addendum

Information received from Jordan on follow-up to the concluding observations*

[Date received: 21 August 2013]

The recommendation concerning the National Centre for Human Rights (para. 5)

1. The Centre enjoys juridical personality with financial and administrative independence and, in this capacity, is entitled to engage in all legal transactions, including the conclusion of contracts and the acquisition of movable and immovable property, as well as litigation. The Centre also enjoys full independence in the conduct of its intellectual, political and humanitarian activities relating to human rights and neither its board nor any of the latter's members are accountable for the measures that it takes within the scope of its terms of reference as specified in its Statute. The Centre is supervised and managed by a board of trustees, consisting of not more than 21 members, the chairman and members of which are appointed by a royal decree based on a recommendation by the Prime Minister. The membership of any of them may be terminated, and a substitute appointed for the remainder of the term in office, by the same procedure. The board elects, from among its members, a vice-chairman who replaces the Chairman during the latter's absence. The Government has no authority over the Centre, which is free to comment on the Government's policy or the measures that it takes and also to comment on or criticize the conduct of its officials.

2. Notwithstanding the financial constraints from which the State Treasury is suffering, the Government is making every endeavour to provide the Centre with annual financial support to enable it to fulfil its responsibilities. By way of example, in 2013 it allocated 382,000 Jordanian dinars to the Centre.

* The present document is being issued without formal editing.

The recommendation concerning the Law on Crime Prevention (para. 11)

3. With regard to paragraph 11 concerning the Crime Prevention Act No. 7 of 1954 and the concern expressed by the Committee that it empowers governors to authorize the detention without charge, effective access to guarantees or trial of anyone "deemed to be a danger to society", the following should be noted:

(a) Article 3 of the Crime Prevention Act stipulates that: "If a provincial governor, having been informed or having reason to believe that a person within the area of his jurisdiction falls under any of the categories listed hereunder, decides that there are sufficient grounds to take measures, he may serve the said person with a summons, in accordance with the model shown in annex 1 hereto, to appear before him to explain any reasons why he would not sign a bond with or without surety, in accordance with the model shown in annex 2 hereto, under which he would undertake to be of good conduct for a period of time deemed appropriate by the governor but not exceeding one year:

(i) Any person found in a public or private place under circumstances that give the governor good cause to believe that the said person was about to commit, or assist in the commission of, an offence;

(ii) Anyone with a record of committing acts of larceny or robbery, receiving stolen property, protecting or harbouring thieves or assisting in the concealment or disposal of stolen property;

(ii) Anyone whose status would make him a public danger if he remained at large without surety."

(b) These law enforcement procedures and measures are of a preventive nature designed to protect public order from infringements or violations by anticipating and forestalling contingencies;

(c) The Act also includes a number of stipulations and lists measures to ensure that the person concerned is treated fairly in regard to the procedural aspects of the investigation, the hearing of witnesses, attendance by legal counsel and the entitlement of any aggrieved party to lodge an appeal with the High Court of Justice against administrative decisions. Provisions to this effect can be found in article 5, paragraphs 1 and 4, of the Act which stipulate as follows:

"1. Whenever such person appears or is brought before him, the provincial governor shall first of all verify the credibility of the reports on the basis of which the measures were taken and shall hear any other statements that he deems necessary;

…

"4. The procedures conducted under the provisions of this Act in regard to the hearing of sworn testimony, the questioning and cross-examination of witnesses, attendance by legal counsel and service of writs, summonses and other instruments, as well as the filing of objections to judgements and the enforcement of decisions, shall observe the same principles as those applied in criminal proceedings before the courts of first instance and, to this end:

(a) No accusation shall be preferred other than that mentioned in the report referred to in the summons;

(b) The measures taken under the provisions hereof shall not require proof that the accused committed a specific act or acts;

(c) The undertaking shall not exceed a commitment by the accused to keep the peace, refrain from committing any acts likely to disturb public tranquillity, and conduct himself in a proper manner.”

(d) A detention order issued by a provincial governor under the terms of the Crime Prevention Act is an administrative order and, as a matter of principle, administrative orders are issued in accordance with the legally prescribed procedures and, therefore, must specify the substantiating grounds for the order. The High Court of Justice, which is competent to hear habeas corpus petitions for the annulment of administrative detention orders and compensation in respect thereof, has annulled many such unlawful orders and awarded compensation to the persons against whom they were issued. Consequently, if an unlawful detention order is issued, an administrative liability action can be brought against the administrative agency that issued it.

4. The High Court of Justice has ruled that the circumstances in which detention is permissible under the provisions of the Crime Prevention Act No. 7 of 1954 are fully specified in article 3 thereof and, accordingly, administrative detention orders are unlawful if they fall outside the scope of those circumstances (Jordanian High Court of Justice, five-judge panel, ruling No. 558/1999 of 20 January 2000). Pursuant to that ruling, the Court found that, insofar as none of the circumstances specified in article 3 of the Crime Prevention Act No. 7 of 1954 were applicable to the acts of which the petitioner was accused, the governor’s decision to place the petitioner under police surveillance was contrary to the provisions of the Act and, moreover, the respondent had not applied the provisions of article 4 of the said Act under which he should have questioned the petitioner in order to ascertain the credibility of the report on the basis of which the measure was taken.

5. The Crime Prevention Act, being of a preventive nature, is applied before the commission of a criminal offence which, after its commission, falls within the jurisdiction of the judiciary. It is applied, but only to the most limited extent, in cases involving murder, honour, ignominy and fornication which provoke public outrage in view of the tribal structure of Jordanian society, since the distinctive features of its application are confidentiality, particularly in cases involving honour or fornication, the rapid settlement of cases and the lack of financial costs such as legal fees. It should also be noted that administrative detention is restricted to persons with a criminal record who are known to the security services and who, if they remain at large, pose a threat to the security and property of other individuals. Since the repeal of this Act would create a “security vacuum” and lead to an alarming increase in offences of theft, robbery and aggression against citizens by persons with criminal records, the Act is considered to be a vital social necessity and, as such, is demanded by the people.

The recommendation concerning the State Security Court (para. 12)

6. With regard to paragraph 12 in which the Committee reiterated its concern at the limited organizational and functional independence of the State Security Court and the fact that the State Security Court Act authorizes the Prime Minister to refer cases that do not affect State security to this court, the following should be noted:

(a) Article 2 of the State Security Court Act No. 7 of 1959, as amended, stipulates that: “In special circumstances in which the public interest so requires, the Prime Minister may decide to establish one or more special courts, known as State security courts, consisting of three civilian and/or military judges appointed by the Prime Minister on the basis of a recommendation from the Minister of Justice in the case of the civilian judges and from the Chairman of the Joint Chiefs of Staff in the case of the military judges. His

decision shall be published in the Official Gazette.” Investigation and trial proceedings before the State Security Court are conducted in accordance with the provisions of the Act;

(b) The State Security Court consists of civilian and military judges. All of them perform their functions in total independence and any one of them has the right to disagree with the majority by issuing a dissenting opinion, bearing in mind the fact that decisions of the State Security Court are taken by consensus or a majority. Its highly qualified and experienced judges enjoy the independence needed to enable the court to adjudicate the cases heard before it in such a way as to ensure the right of defence and the triumph of justice. The litigation procedures applied before the State Security Court are the same as those applied before the ordinary courts and **its decisions are appealable to the Court of Cassation which is empowered to conduct a substantive review thereof**. This provides confirmation that, in its decisions and functions, the State Security Court is independent in conformity with the international norms for a fair trial;

(c) The State Security Court is competent to try civilians who do not have military status and have no connection with military activities. Due to the serious nature of the offences that it is mandated to adjudicate, the court has been declared competent to hear cases involving civilians, who are tried before its civilian judges in accordance with the last amendments to the Constitution, article 101, paragraph 2, of which stipulates that: “A civilian may not be tried in a criminal case before a court which is not entirely composed of civilian judges, with the exception of crimes of treason, espionage, terrorism, drugs and money counterfeiting.” Hence, the powers of this court are strictly limited to a number of offences relating to the protection of State security or public order;

(d) Under recent amendments made to the Constitution in 2011 the jurisdiction of the State Security Court has been reduced. Article 101, paragraph 2 states as follows: “A civilian may not be tried in a criminal case before a court which is not entirely composed of civilian judges, with the exception of crimes of treason, espionage, terrorism, drugs and money counterfeiting.” Thus the jurisdiction of the Court has been limited to just four crimes: treason, espionage, drugs related offences and money counterfeiting.