

## Committee on the Application of Standards

**Date:** 19 May 2021

*Governments appearing on the preliminary list of individual cases have the opportunity, if they so wish, to supply on a purely voluntary basis, written information before 20 May 2021.*

### ▶ Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases

#### Jordan

#### Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

**(Ratification: 1968)**

The Government has provided the following written information.

Observations of the Jordanian Government on the information submitted by the International Trade Union Confederation on 25 September 2020 and 1 February 2021 with regard to the Jordanian Teachers' Syndicate and other topics.

#### I. Establishment of the Jordanian Teachers' Syndicate

1. The mission and profession of teaching profession is a form of work that contributes to driving and uplifting the national economy in that it contributes to building the national economy. Interpretative resolution No. 1 of 2011 issued by the Supreme Council for the Interpretation of the Constitution on 24 March 2011 authorizes the establishment of a union of teachers working in the various sectors of the teaching profession, in the same manner as unions of physicians, engineers, dentists, pharmacists, agricultural engineers and others, pursuant to the provisions of article 23 of the Constitution.
2. In accordance with the Jordanian Teachers' Syndicate Act No. 14 of 2011, the union known as the Jordanian Teachers' Syndicate was established in Jordan. The union enjoys legal personality and financial and administrative independence. It aims to advance and develop the mission and profession of teaching, to develop and preserve the ethics and traditions of the profession and to safeguard the rights and dignity of teachers. It is committed to preserving the requirements of the educational process, taking care of students' interests, safeguarding their right to education and resorting to legitimate methods in embracing teachers' demands, especially dialogue.

## II. Relationship of the Jordanian Teachers' Syndicate to the provisions of the Jordanian Labour Code

- a) The membership of the Jordanian Teachers' Syndicate includes everyone to whom the definition of "teacher" contained in section 2 of the Jordanian Teachers' Syndicate Act applies and who practises the teaching profession or performs any specialized educational service in any governmental or private educational institution and holds a valid teaching licence. Teachers are subject to the provisions of the Syndicate Act with regard to affiliation and conditions of membership, including non-affiliation with any other union under section 7 of the Act.
- b) The Jordanian Teachers' Syndicate, which was established under the Jordanian Teachers' Syndicate Act, departs from the definition of "trade union" contained in section 2 of the Labour Code (Act No. 8 of 1996), as amended, which defines a trade union as "a professional organization of workers formed in accordance with the law." Teachers are not subject to the provisions contained in section 98 of the Labour Code relating to the organization of the affairs of new trade unions. Therefore, the legal basis for its formation differs from that of the General Union of Workers in Private Education, which was established in 1969 and whose membership includes teachers working in private educational institutions.
- c) Although the Teachers' Syndicate Act provides that in order to be admitted as a member, a "teacher" in private educational institutions should not be a member of any other union, including the General Union of Workers in Private Education, a "teacher" in these institutions is not excluded from the status of worker as defined in the Labour Code and is not deprived of his rights thereunder.
- d) The Government of the Hashemite Kingdom of Jordan works constantly to apply the provisions of the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98) to workers' and employers' unions supervised by the Ministry of Labour and works for conciliation in labour disputes between workers' and employers' unions or employers. This case does not apply to the Jordanian Teachers' Syndicate.
- e) With regard to the question concerning the existence of legislative restrictions on the right to organize and collective bargaining, considering that the amendments introduced by Act No. 14 of 2019 amending the Labour Code limit these rights, the Ministry of Labour clarifies that the Government's objective in introducing these recent amendments is to enable a greater number of workers to establish new trade unions by reclassifying their occupations, all with the aim of expanding freedom of association and collective bargaining and reclassifying large sectors together under one union banner.
- f) In accordance with the provisions of the Labour Code, the Ministry of Labour deals with the resolution of collective labour disputes that arise between a trade union on the one hand and an employer or employers' unions on the other hand using collective bargaining mechanisms, through the Conciliation Representative or the Conciliation Board. Accordingly, the Ministry has no involvement in any disputes arising between teachers who are members of the Teachers' Syndicate and any other party.
- g) With regard to trade union structure, prevention of the registration of other trade unions, the lack of multiple unions in the same sector and the Government's refusal to recognize independent unions, we note the following:
  1. The right to establish trade unions of various kinds is regulated by law. The mechanism for the establishment of workers' and employers' unions is regulated by the Labour Code, which requires that the rules of procedure of the union be

attached, stating the conditions and procedures for affiliation, the conditions for the establishment of committees and for procedures and actions, including the holding of elections and announcement of the results. Unions are independent in respect of these conditions and procedures.

2. The Ministry of Labour's refusal to register new trade unions is based on the provisions of its decision regarding the classification of occupations and industries in which workers are entitled to establish unions, issued in 1999 under section 98(d) of the Labour Code, which do not permit the establishment of new trade unions with the same goals and objectives as an existing registered trade union, so that the sector is not liable to fragmentation and conflicts of interest. This is the objective sought by the legislator with regard to the establishment of trade unions in section 98 of the Labour Code, namely, to protect workers' interests, defend their rights at work, conduct collective negotiations, conclude collective agreements and represent workers in institutions of relevance to labour, economic and social affairs. Consequently, the application of the Code does not compromise but regulates the right to form trade unions. The Minister's decision to refuse to register new trade unions that are similar to existing trade unions does not violate international covenants and the Jordanian Constitution. Article 22(2) of the International Covenant on Civil and Political Rights and article 8(a) of the International Covenant on Economic, Social and Cultural Rights stipulate that no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others; these covenants are international framework agreements, in line with which States must amend their legislation. Under article 16(2) of the Jordanian Constitution, the right to form unions is regulated by the laws in force. Therefore, the restriction of the law does not violate international Covenants nor does it violate the Jordanian Constitution. Consequently, there is no sound basis in law for raising this issue.
3. The position of the Ministry of Labour in relation to workers' and employers' unions is purely supervisory; they are independent in their work and governed by their rules of procedure and the Ministry of Labour does not interfere with them.
4. With regard to independent unions or the Federation of Independent Unions, these entities are illegal because they did not follow the courses charted by the Labour Code for their establishment and operation, hence their legal existence cannot be recognized. As a result, these unions do not represent workers and defend their interests. It was this that prompted the Ministry of Labour, in order to protect the rights of workers joining these unions, to send an official memorandum to all ministries in Jordan and State-owned companies indicating that the so-called Jordanian Independent Trade Union Federation was not recognized. The aim of doing so was to strengthen the rule of law, identify the authorities that can be formally dealt with and discriminate in their dealings with legally registered unions and those that are unregistered.
5. With regard to trade union structure, prevention of the registration of other trade unions, the lack of multiple unions in the same sector and the Government's refusal to recognize independent unions, the basis for this is the provisions of sections 98(d) and 102(e) of the Labour Code and the decision regarding the classification of occupations and industries in which workers are entitled to establish unions, issued in 1999 under section 98 of the Labour Code.

6. With regard to the question concerning the amendment to the provisions of section 116 of the Jordanian Labour Code that permits the dissolution of any union in the event that it violates the Jordanian Labour Code, we note that the authority of the Minister of Labour is limited to dissolving the administrative body of a trade union or employers union as a result of its violation of the provisions of the Labour Code and the regulations issued thereunder or the legislation in force, or if the rules of procedure violate the legislation in force, and the appointment of a transitional administrative body to manage the union for a period of six months until new elections are held, after issuing a warning to desist from the violation within a period not exceeding 30 days. The Minister of Labour does not have the authority to dissolve the union itself. A union may be dissolved by the union itself, voluntarily, or by the courts. The Labour Code, in order to protect the interests of a union that finds itself affected by a decision of the Minister of Labour to dissolve its administrative body, authorizes an appeal to be lodged with the competent court. The aim of this amendment, introduced in 2019, is to contain problems and disputes that may occur within the union, some of which have been detrimental to the public interest.
- h. With regard to the question concerning the amendment introduced to the provisions of section 119 of the Labour Code and the prescribed penalties of imprisonment for a period of three months and/or a fine of not less than 500 dinars and not more than 100 dinars for anyone participating in the name of the union that was dissolved, the aim of this provision is to reinforce the rule of law and provide protection for workers by prohibiting them from dealing with unions that have no legal existence and cannot protect and defend their interests before all authorities, consistent with the provisions of article 17 of the Jordanian Constitution.

### III. Suspension of work of the Jordanian Teachers' Syndicate

1. The suspension of work of the corporate body represented in the closure of the offices of the Jordanian Teachers' Syndicate was in accordance with a judicial decision, not issued by the Government, assigning it criminal liability for offences committed by its members relating to union funds, to which the description of public money applies. These are economic offences under the provisions of the Economic Offences Act No. 11 of 1993, as amended. Accordingly, the Office of the Public Prosecutor, pursuant to the provisions of section 9(a)(3) of the Economic Offences Act, suspended the Jordanian Teachers' Syndicate from work for a period of two years for which complaints were brought against them. Since Jordan guarantees respect for international standards and obligations in accordance with the Universal Declaration of Human Rights of 1948, the Universal Declaration on the Independence of Justice of 1983 and the Basic Principles on the Independence of the Judiciary, issued by the United Nations in 1985, which promote the principle of the independence of the judiciary, a principle established by the authors of the Constitution in articles 27 and 97 thereof, the Office of the Public Prosecutor exercised its authority in accordance with the law, and the other authorities - legislative and executive - refrain from considering it. The Government is not empowered to intervene in judicial decisions and, at the same time, is obliged to implement the provisions of the Constitution.
2. The suspension of the board made it necessary to take precautionary measures, including the preservation of teachers' rights through a notification from the Public Prosecutor concerning the issuance of decisions relating to the union and the establishment of an interim committee to run the administrative and financial business of the union, which is to pay the salaries of employees in the offices of the Jordanian Teachers' Syndicate and

the rents for its premises only for as long as the board is suspended from work and until the issuance of a judicial decision.

3. The Government has temporarily stopped annual increases for all workers, including teachers in the government sector, in line with the measures taken to avoid an economic problem due to the consequences of the COVID-19 pandemic, every country having taken its own measures to confront the pandemic. The Government has invited the union to dialogue on more than one occasion and announced that it does not object to the courts deciding the matter. The Government restored annual increases with effect from 1 January 2021.
  4. The decision of the Magistrate's Court to dissolve the Teachers' Syndicate is an interlocutory decision in respect of which an appeal has been lodged with the competent court. Courts in Jordan are independent, and judges are subject to no authority save the law.
- IV. National legislation guarantees the protection of natural and private rights and freedoms, the most important of which are freedom of opinion and expression, the right to education and the right to form unions within the framework of the Constitution and the law, within parameters that protect the rights of others, including the members of the Jordanian Teachers' Syndicate. It does so through a series of measures that guarantee their rights and freedoms in accordance with the provisions of the Jordanian Teachers' Syndicate Act No. 14 of 2011, as amended, and specifies the obligations of the union aimed at preserving the requirements of the educational process, taking care of students' interests and not compromising their right to education.
- V. **With regard to observations on the scope of application of the Labour Code**
1. With regard to the fact that the Labour Code does not permit foreign workers to establish or preside over a union of their own, section 98(b) of the Labour Code, which constitutes a legal basis, follows from the implementation of article 16(2) of the Jordanian Constitution, which provides that: "Jordanians shall have the right to establish associations, unions and political parties provided that their aims are lawful, their means peaceful and their statutes do not violate the provisions of the Constitution." With regard to the question concerning the possibility of voting in executive boards, the conditions and procedures for affiliation and the conditions that candidates in elections to the administrative body are required to meet and the manner in which members of the administrative body are elected, these matters are determined by the rules of procedure of the union, the employer's union and the general federation of trade unions and the Ministry has no part in them.
  2. With regard to the ambiguity as to whether the Labour Code allows domestic workers and workers in the agricultural sector to establish or join a union of their own, we emphasize the statement made in paragraph 1 of part V of this document and add that section 3 of the Labour Code explicitly refers the regulation of the provisions to which domestic and agricultural workers are subject to specific regulations issued by the Council of Ministers. Accordingly, the Ministry of Labour has prepared a preliminary draft regulation for agricultural workers for 2020, which has been submitted to the Council of Ministers in partnership and consultation with all relevant international and local bodies and is still in the constitutional stages of approval. In relation to domestic workers, there is nothing to prevent Jordanian and non-Jordanian domestic workers from being affiliated with, joining and participating in their representative union, namely, the General Union of Workers in

Public Services and Liberal Professions; this category of workers can join and participate in membership of the union's administrative body and stand for election.

3. With regard to the demand to allow persons over 16 years of age to join trade unions, the reason for not allowing persons under the age of 18 years to join trade unions is to protect the will of workers, which is restricted to the age of majority (18 years), and to ensure that the conduct of all matters related to the work and functions of the union, including conducting negotiations, concluding collective agreements, representing workers in institutions related to labour, social and economic affairs, voting on decisions of the administrative body and approving the union's budget, is reliable.
4. With regard to the penalties stipulated in section 139 of the Labour Code not being a deterrent, we note that the Government submitted a draft amendment to the Labour Code in 2020 including an amendment to the provisions of section 139 increasing the penalty to from 500 to 1,000 Jordanian dinars. The draft amendment is currently in the House of Representatives going through constitutional procedures.
5. With regard to preventing public employees working in the public sector from exercising their right to collective bargaining, public employees are not subject to the provisions of the Labour Code, which excludes them from its provisions under section 3. They are therefore not subject to the provisions of the Labour Code.