SOUTH SUDAN: PRESIDENT SHOULD SEND DRACONIAN NATIONAL SECURITY SERVICE BILL BACK TO PARLIAMENT FOR REVIEW

Amnesty International urges South Sudan’s President Salva Kiir to send the National Security Service Act 2014 (Amendment) Bill 2024 back to parliament for review and significant amendment. The bill that passed parliament on 3 July 2024 risks undermining human rights and strengthening the National Security Service (NSS)’s abusive powers. Under it, the NSS would retain the power to arrest people with or without an arrest warrant.

President Kiir should ensure that the bill conforms to the Constitution and international human rights standards by only granting the NSS classical intelligence roles of information gathering, analysis and advice to relevant authorities.

By passing this amendment bill, with 274 MPs voting for and 114 MPs opposing it, parliament has dealt a major blow to efforts by many civil society organizations and various transitional government agencies to bring the NSS Act in line with international human rights law and the 2011 Transitional Constitution.

Parliament had an opportunity to remove the controversial Sections 54 and 55 from the NSS bill following submissions by civil society organizations, including Amnesty International through an open letter. These two sections, alongside Section 57 of the newly passed bill, grant the NSS broad police-like powers to arrest and detain those who commit what is vaguely defined as “crimes against the state.”

Amnesty International urges the president to send back the bill to parliament within the 30 days granted to him by the constitution. This is to avoid the same situation as occurred in 2014 when the bill automatically became law in accordance with article 85 of the Constitution when President Salva Kiir sent the bill back to parliament after 33 days.

BACKGROUND

The bill to amend the 2014 NSS Act was drafted by the National Constitutional Amendment Committee (NCAC) as part of reforms initiated by the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-RCSS). Following lack of consensus by committee members about the agency’s authority to make arrests, the bill was referred to the Ministry of Justice and Constitutional Affairs in 2019 and then to the presidency in April 2021 for resolution.

In December 2022, the justice minister recommended to the cabinet and the presidency that the agency’s authority to arrest and detain suspects should be limited. On 22 February 2023, several media outlets reported that the presidency had agreed to abolish the agency’s authority to arrest and detain people, with or without a warrant.

Amnesty International has documented numerous cases of arbitrary detention by the NSS in multiple facilities where detainees are often subjected to torture and other ill-treatment – some held incommunicado without access to a lawyer, or family members. The NSS spy network extends throughout East Africa to reach those who find refuge in neighbouring countries. For instance, on 4 February 2023, Morris Mabior Awikjok Bak was arbitrarily arrested in Nairobi, forcibly returned to South Sudan, and eventually detained at the Blue House, the NSS headquarters, in Juba. In 2017, Dong Samuel Luak and Aggrey Ezbon Idri were forcibly disappeared in Nairobi Kenya by suspected NSS agents, and later killed in South Sudan, the UN Panel of Experts concluded.