

IN THE NAME OF GOD

IN THE NAME OF PEOPLE

KURDISTAN PARLIAMENT-IRAQ

NO. 18 – 2014

In accordance with the provisions of part 1 of Article 56 of Law No. 1 - 1992 (amended) and pursuant to the legislation enacted by Kurdistan Parliament-Iraq under its ordinary session No. 18 Dated 23/07/2014, the Kurdistan parliament decided to issue the following law:

Law No. 4 – Year of 2014

INDEPENDENT HIGH ELECTORAL AND REFERENDUM COMMISSION LAW

CHAPTER ONE

DEFINITIONS

Article 1:

The following terms shall have the meanings hereunder for the purposes of this Law:

1. **Parliament:** Kurdistan Parliament- Iraq;
2. **Commission:** Independent High Electoral and Referendum Commission;
3. **Region:** The Kurdistan Region-Iraq
4. **Council:** Council of Commissioners

CHAPTER TWO

Article 2:

First: According to this Law, a board is formed under the name of the Independent High Electoral and Referendum Commission in order to be the exclusive authority managing the issues of elections and referendums in the Kurdistan Region- Iraq.

Second: The headquarters of the Commission will be in Erbil, the capital of Kurdistan. If needed, its offices can be established in the center of provinces and other official units.

Article 3:

The Commission is a professional, independent and impartial board, which will be under the supervision of the Parliament and accountable for it.

Article 4:

The Commission is responsible for the following:

First: Preparing internationally agreed and applicable rules and principles for general elections and referendums in the whole of Kurdistan-Iraq in order to guarantee a fair and transparent voting process.

Second: Observing elections and referendums in the whole of Iraqi Kurdistan.

Third: Announcing the time of elections and referendums in pursuant with applicable laws.

Fourth: Organizing and accomplishing all kinds of elections and referendums in the whole of Kurdistan-Iraq.

Fifth: Carrying out the process of recording of voters' names, and organizing and renewing their registrations to guarantee their electoral rights.

Sixth: Registration and approving election lists and coalitions according to the law.

Seventh: Organizing and accomplishing the process of registering names of candidates and observers of elections. Observers can be chosen among international and local organizations and the media.

Eighth: Organizing and accomplishing the process of numbering votes and announcing the results of elections in media and each political entity that participated in the election should be given one copy of vote numbering report.

Ninth: Announcing the initial results of elections and referendums on the condition that the announcement should not be postponed more than 72 hours and the results must be approved by a special judicial authority.

Tenth: Working towards gaining trust in the process of election among the people of Kurdistan and rising awareness through collaborating with all shared parties involved in the election process.

CHAPTER THREE

STRUCTURE OF THE COMMISSION

Article 5:

The commission is formed of:

First: Council of Commissionaires

Second: Administration of the election

First: Council of Commissionaires

- 1- Council of Commissionaires is formed of 9 members nominated by a special committee made by the Parliament. Subsequently they will be selected through the majority vote of the members of parliament. At least two members of the Council of Commissionaires should be legal experts. The Council should be representative of women and ethnic groups in Kurdistan. The Council of Commissionaires mandate is five years.
- 2- The members of the Council must fulfill the following requirements:
 - a. Being citizen and permanent resident of Kurdistan-Iraq.
 - b. Having at least a basic university degree.
 - c. Being not less than 30 years old.
 - d. Being experienced, well known for his/her trustworthiness, competence and impartiality.
 - e. Having a honorable conduct and behavior and not being convicted in any honor related offences.
 - f. Not being involved in any crime committed by the Ba'ath regime in Iraq to oppress the people of Kurdistan and the people of Iraq in general and not have been a Ba'athist according to Law 18 year 2003.
 - g. Not being a member of any political party during his/her membership of the Council.
- 3- Members of Council take oath in front of the judiciary council as follows: 'I swear to Almighty God to perform my legal and professional duties with integrity and dedication; I work to accomplish my mission independently and impartially; God is witness to what I declare.'
- 4-
 - a. In its first session, the Council selects the president, the vice-president, the decision-maker, and the director of the Council's director of administration through two-third of its members' votes.
 - b. The president of the Council is the legal representative of the Commission.

- 5- The president of the Council or anyone who represents him/her is responsible for:
 - a. Managing the administrative and organizational works of the Council.
 - b. Presiding and holding Council's meetings and preparing its agendas, including any meeting requested by at least three members of the Council.
 - c. Any other duty that the Council decides on.
- 6- The Council's session is official with attendance of the absolute majority of its members. The resolutions of the Council are taken and approved through the absolute vote of attendants, and if the number of the votes has no majority, that group's proposal will be accepted that is confirmed by the president's vote.

Second: Administration of the Election

- 1- Administration of the Election is formed of a central office, several election offices in provinces and administrative units based on a structure proposed by the election administration and approved by the Council.
- 2- Administration of the Election is responsible for implementing the guidelines ratified by the Council and manages any activities characterized by processing and executing or guidance.

CHAPTER FOUR

AUTHORITIES OF THE COUNCIL

Article 6:

First: The Council executes the following authorities:

- 1- It establishes, renews, and numbers voters' registration process through all different up-to-date methods. All bodies involved in the election process should assist and coordinate with the Council in this regard.

- 2- To approve the register of the electoral lists and candidates in order to initiate the process of voting and participating in the process.
- 3- To approve the election observers and representatives of the electoral participators, journalists, and civil society organizations at both local and international level.
- 4- To determine the outcome of the official complaints made by the electoral participators. The decisions of the Council can be approved or refused by the Justice Authority at the Kurdistan Region's Court of Appeal.
- 5- To approve the mechanism of polling.
- 6- To announce the final results of the elections and referendums subsequent to the verification of the Kurdistan Region's Court of Appeal.
- 7- Putting necessary mechanism and instructions for administrating the process of elections in a flawless way.
- 8- Approving the structure of the administration of elections.
- 9- Employing staff for the electoral offices in provinces and administrative units.
- 10- Drafting the financial policy of the Council.

Second: To propose three candidates for the high positions in the general directorates of the Commission and in the electoral offices of the provinces. The process should be based on an equal opportunity of all, and for this purpose, the Council forms a dedicated committee. One of the candidates is chosen through two-third vote of the Council's members.

CHAPTER FIVE

ACCOUNTABILITY AND ENDING MEMBERSHIP

ARTICLE 7:

First: Membership of the Council comes to an end due of one of the following reasons:

1. Expiration of the Council's mandate.

2. Resignation.
3. In case of death or not being able to perform the duty.
4. Having a court verdict due to a honor related crime.
5. Whereas two-third of the parliament's members vote to relieve individually or collectively any member of the Council of his/her duty due to the violation of present law.
6. Whereas it is proven that a candidate has submitted false information.
7. In case of not attending the sessions of the Council three successive times and without any justified reason.
8. Whereas a member is candidate to one of the representation councils.

Second: When one of the seats of the Council becomes vacant due to one of the above-mentioned reasons, another member is elected according to the same process which has been referred to in the law.

CHAPTER SIX

MEMBER'S RIGHTS

ARTICLE 8:

First: The members of the Council have the same rights and privileges of a deputy minister, and they last for a period of five years. This period can be renewed once only.

Second: The Council is allowed to give additional benefits to its staff on the condition that it should not exceed the benefit given to the employees of Parliament.

Third: As a commissionaire, a member of the Council cannot be employed for a period of three years after the expiration of his/her mandate; except in the academic sector.

Fourth: In case of retirement, a member of the Council receives 80% of his/her salary as pension, except when he/she resigns or is forced to leave the position due to an offence related to his/her duty.

Fifth: Whereas a member of the Council becomes disabled during the period of working at the Council and hence he/she cannot perform his/her duty properly, he/she receives a pension, according to the fourth part of Article 8.

Sixth: In case of death of a member of the Council during his/her work at the Council, his/her family receives a pension, according to the fourth part of Article 8.

Seventh: The service time of a member of the Council will be considered when calculating his/her salary increase, promotion and pension.

CHAPTER SEVEN

ELECTION COMPLAINTS

ARTICLE 9:

First: The Council has the exclusive authority to imply its plans and programs, and it needs to authorize any criminal investigations related to any approved wrongdoing regarding the integrity of the election process.

Second: The Council is able to use its authority to solve the problems during the preparation and conduction elections and referendums. When necessary, the Council can delegate the same authority to the administration of the election to solve issues.

Third: The Council's decisions are published in both Kurdish and Arabic in three daily newspapers published in the Kurdistan Region. The Council can also have a newspaper and a website of its own.

Fourth: Kurdistan Region's Court of Appeal forms a commission of three part-time judges in order to revise the appeals submitted by complainers against the Council's decisions.

Fifth: Any appeal against any decisions of the Council is directly submitted to the judicial commission of the Region, within three working days following its announcement.

Sixth: The judicial commission should settle the appeal cases within seven days subsequent to their submission. The Council's decisions regarding the appeals are final, within the provisions of this law and with regards to the Civil Pleadings Law Number 83 year 1969 amended and other executive laws of the Region which have not been referred to in this law.

CHAPTER EIGHT

DIFFERENT AND FINAL VERDICTS

ARTICLE 10:

The Council has to settle a suitable mechanism by which the citizens of Kurdistan living abroad can take part in elections and referendums.

ARTICLE 11:

The Council can depend on international and local experts for elections and referendums at the stages of planning, preparation, and accomplishment of elections and referendums.

ARTICLE 12:

The Council has to cooperate with international and national civil society organizations. It also needs to collaborate with representatives of political parties and the media in order to facilitate the process of monitoring elections and referendums.

ARTICLE 13:

The Council has to do the following:

First: preparing seasonally report regarding its functions and submitting it to the Parliament.

Second: preparing a final and detailed report on each election process and submitting it to the Parliament.

ARTICLE 14:

The president of the Council has a ministerial position when the Council meets ministers, ministries and other official governmental organizations.

ARTICLE 15:

First: The Council has an annually independent budget of itself according to the regulation and instructions. The budget is proposed by the Council in consultation with Finance Ministry, and approved by Kurdistan Parliament. This budget will be accounted as part of Region's annual budget.

Second: Accountancy of the Council will be under the supervision of the directorate of finance audit of the Region.

ARTICLE 16:

The Council conducts the followings through the absolute majority of its votes:

First: To draft Rules and Producers of the Council.

Second: To prepare a specific system for the Council's institutions.

Third: To renew or to abolish or to merge directorates or offices or branches of the Council whenever necessary.

Fourth: To approve necessary instructions to facilitate the implementation the provisions of the present law.

ARTICLE 17:

The Council has the right to propose laws related to elections and referendums to the Parliament.

ARTICLE 18:

The Council should include representatives of the ethnic groups on a balanced way.

ARTICLE 19:

The Council must be formed in a period of time not exceeding 90 days after the ratification of the present law.

ARTICLE 20:

Any law or decision that is against the articles of the present law is considered null and non applicable.

ARTICLE 21:

The Council of ministers and other relevant bodies must apply the present law.

ARTICLE 22:

The present law is implemented from the day of its publication in the Official Gazette (Kurdistan Events).

The reasons for drafting the present law

This law was prepared due to the national interest for establishing a high independent committee of elections and referendums and to regulate its duties that will be performed by an impartial, independent high commission accountable to the parliament.

Yusif Muhammad Sadiq

Speaker of Kurdistan Parliament-Iraq

Note: This law was approved under the resolution of No. 10, 2014 by the President of Kurdistan Region.

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