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تصدر عن وزارة العدل

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Legislation

No. 36

Political Party Law

No. (36) of 2015

قانون الأحزاب السياسية

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Ministry Of Justice

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In the Name of People

Presidency of the Republic

RESOLUTION NO. (39)

Based on what had been approved by the Parliament, in accordance with the provisions of Item (First) of Article (61) and Item (Third) of Article (73) of the Constitution, the president of the Republic decided on September 17, 2015 to issue the following law:

POLITICAL PARTY LAW

NO. (36) OF 2015

SECTION ONE

VALIDITY, DEFINITIONS & OBJECTIVES

ARTICLE

1

The provisions of this law shall be applied to political parties and organizations in Iraq.

ARTICLE

2

For the purposes of this law, the following terms have the definitions assigned to them:

First: Party or political organization: A group of citizens affiliated under any name on the basis of shared principles, objective and visions, seeking to attain power to achieve its goals through democratic means, in a manner that does not conflict

with the provisions of the Constitution and applicable laws.

Second: Court of jurisdiction: (The Judicial Body for Elections) established pursuant to the Independent High Electoral Commission law No. (11) of 2007, as amended.

Third: Parties Department: The Department of Political Parties and Organizations Affairs within the Independent High Electoral Commission, which linked to the Board of Commissioners.

ARTICLE

3

This law aims to:

First: Regulating the provisions and procedures related to the foundation and activities of parties.

Second: Achieving the principle of political and partisan pluralism based on constitutional legitimacy.

Third: Guaranteeing the freedom of citizens to establish, affiliate or withdraw from parties.

SECTION TWO

BASIC PRINCIPLES

ARTICLE

4

First: Citizens both men and women have the right to participate in the foundation of a political party, affiliate or withdraw from it.

Second: No citizen may be forced to affiliate or remain in any political party .

Third: No citizen may affiliate more than one political party at the same time.

Fourth: Anyone who has affiliated any party may affiliate another party, provided that his/ her membership in the previous political party has ended.

Fifth: No citizen may be discriminated against, harassed, questioned or have his/ her constitutional rights violated because of his/ her affiliating a party established in accordance with the law.

ARTICLE

5

First: The party shall be founded on the basis of citizenship and in a manner that does not conflict with the provisions of the Constitution.

Second: A party may not be founded on the basis of racism, terrorism, takfir (Declaring someone as being unbeliever. Translator), sectarian, ethnic or nationalistic fanaticism.

Third: The foundation of any party that adopts or promotes the ideology or methodology of the dissolved Ba'ath Party shall be prohibited.

ARTICLE

6

Political parties shall adopt democratic mechanisms for selecting their party leaders.

ARTICLE

7

Each party shall have its own name and distinctive emblem, and the party's full name, abbreviated name and distinctive emblem shall be different from those of previous political parties registered under this law.

SECTION THREE

PROVISIONS FOR FOUNDATION

ARTICLE

8

The following conditions shall be met for foundation of any party:

First: The party's principles, objectives and programs shall not conflict with the Constitution

Second: The party shall have its own program for achieving its objectives.

Third: The party's foundation and activities shall not take the form of military or paramilitary organization, nor may it be affiliated with any armed force.

Fourth: None of the party's founders, leaders or members may have been proven by a final judgment to have advocated for or participated in promoting, in any public manner, ideas that conflict with the provisions of the Constitution

ARTICLE

9

The following conditions shall be met by anyone to establish a party:

First: To be of Iraqi nationality.

Second: to have reached the age of twenty-five and possess legal capacity.

Third: Not convicted by a final judgment from a competent court of premeditated murder, a crime of moral turpitude, terrorism, financial or administrative corruption or international crimes; not subject to accountability and justice procedures; and not affiliated with the dissolved Ba'ath Party at the level of active member or higher.

Fourth: not to have been a member of any other party at the time of its founding.

Fifth: not be a member of the judiciary, the integrity commission, the independent high electoral commission, the high commission for human rights, the armed forces, the internal security forces, the intelligence service and the security agencies, and anyone affiliated with a party, shall choose between resigning from the party or the position in the aforementioned entities.

Sixth: to have a first university degree or its equivalent.

ARTICLE

10

The following conditions shall be met to be member in any party:

First: Iraqi nationality.

Second: At least eighteen (18) years of age and possessing legal capacity.

Third: Not a member of the judiciary, the integrity commission, the independent high electoral commission, the high commission for human rights, the armed forces, the internal security forces, the intelligence service or any security agencies, furthermore not be subject to accountability and justice procedures, and anyone affiliated with a party, he/ she shall choose between resigning from the party or his/ her position in the aforementioned entities

SECTION FOUR

REGISTRATION PROCEDURES

ARTICLE

11

The following conditions shall be met for the foundation of any party:

First:

- a. The request for foundation shall be submitted in writing, signed by party's representative (for registration purposes), to the Party Department, accompanied by a list of the names of the founding body, which shall be consisted of no fewer than (7) seven founding members, and a list of the names of no fewer than (2000) two thousand members from various governorates. Women's representation shall be taken into consideration.
- b. Parties representing ethnic groups (minorities) shall attach a list of the names of no fewer than (500) five hundred members.

Second: The following documents shall be attached to the request for foundation.

- a. Three copies of the party's rule of procedures and its political program.
- b. A list of the name of the founding member body, accompanied by their personal signatures and notarized.
- c. A Certified copy of the civil status identity card and residency card for each founding member body or any legally equivalent document.

- d. A written undertaking to open a bank account for the party within (30) thirty as of the date the political party is considered legally permissible.
- e. 1. A copy of the criminal record of each founding member, shall be sent by the Ministry of Interior/ Criminal Evidence Department or the Ministry of Interior in the region for residents of the region, and the Supreme National Commission for Accountability and Justice, upon request by the Party Department, within a period not exceeding thirty (30) days as of the date of submitting the foundation request confirming that the member's record is free of any final judicial ruling for premeditated murder, a moral turpitude crime, terrorism, financial or administrative corruption or any involvement in accountability and justice proceedings.
2. If the Party Department does not receive the criminal record of each founding member within the specified period, the request for foundation shall be considered conditionally accepted.

ARTICLE

12

First: In the event of a formal deficiency or objective flaw in the foundation request procedures, the applicant shall be notified to complete these procedures within a period of (30) thirty days, otherwise, the request shall be considered rejected

Second: The Party Department shall collect a registration fee of (25,000,000) twenty-five million dinars.

ARTICLE

13

First: The Party Department shall decide on the foundation request within a period not exceeding (15) fifteen days from the date of consideration of the request, otherwise, the request shall be considered accepted.

Second: The Party shall be considered legally-recognized entity after the approval of the Party Department and the ratification of the Council of Commissioners and being published in two local newspapers.

ARTICLE

14

First: The decision of the Department (The Party Department) regarding the acceptance or the refusal of the request of the party foundation shall be subject to appeal by anyone of interest before the court of jurisdiction and within (15) fifteen days as of the date of its publication.

Second: The court of jurisdiction shall decide on the appeal within (15) fifteen days as of the date of its receiving of the appeal.

Third: In case the court of jurisdiction revokes the decision of the Party Department, the request shall be returned to be reconsidered again.

Fourth: The decisions issued by the court of jurisdiction shall be subject to appeal before the Higher Federal Court during (30) thirty days starting as of the day following the

notification of decision, in accordance with the provisions of the Code of Civil Procedure No.(83) of 1969.

ARTICLE

15

The appeal of the decision issued by the court of jurisdiction shall be submitted to the Higher Federal Court and (500000) five hundred thousand IQDs fee shall be collected, and deciding on the appeal shall be considered urgent.

ARTICLE

16

First: The Party shall be legally-recognized entity as of the date of the ratification of the Higher Federal Court on the decision of the court of jurisdiction.

Second: If the Federal Court revokes the decision, the case shall be returned to the court of jurisdiction to decide on it again in accordance of the requirements of the decision of the Federal Court.

Third: The decision of Higher Federal Court of the ratification on the decisions of the court of jurisdiction shall be published in the Official Gazette.

ARTICLE

17

First: A department called (the Department of Political Party and Organization Affaires) shall be hereby established within the organizational structure of the Independent High Electoral Commission, linked directly to the Council of Commissioners, chaired by an employee with the rank of Director General. with experience, integrity, and expertise, holding high certificate in Law or political sciences, have a sufficient number of employees. the Department of Political Party and Organization Affaires enjoys the legal and moral personality and be represented in the courts by a chairman or who represents him/ her.

Second: The Party Department shall specialize in the following:

- a. Issuing party foundation license.
- b. Submitting a proposal to the Ministry of Finance concerning the annual estimation of the total amount of the financial subsidy of the political parties.
- c. Following up the acts and activities of the political parties and assessing the extent of its conformity and compliance with the provisions of the Law.
- d. Monitoring violations committed by the political parties and investigating in them.
- e. Attending courts sessions in cases related to the political parties and submitting the appeals before the competent courts.
- f. Filing complaints and lawsuits against political parties or any of their members when violating the provisions of this Law.

Third: The decisions of the Party Department and its proceedings relating to implementing the provisions of this Law shall be valid after the ratification of the Council of Commissioners.

دائرة الوقائع العراقية / قسم الترجمة

SECTION FIVE RIGHTS & DUTIES

ARTICLE

18

The party shall enjoy its legal and moral personality and practice its activity in accordance with that.

ARTICLE

19

First: The party leader and his/ her representative shall, in accordance with the party's rule of procedures, be the one who represents it in anything related to its affaires before judiciary and other authorities.

Second: The party leader and his/ her representative may delegate one or more of the party leaders to act on his/ her behalf, in accordance with rule of procedures.

ARTICLE

20

First: All the headquarters of political party shall be protected and may not be entered or be inspected, except by a judicial decision, in accordance with the Law.

Second: The documents of the political party, its correspondences and means of its communications shall be protected and may not be inspected, monitored or eavesdropped on it or disclosed it, except by a judicial decision, in accordance with the Law.

ARTICLE

21

The party has the right to:

First: Participate in the elections and political life in accordance with the Law.

Second: Meet and demonstrate by peaceful ways in accordance with the Law.

ARTICLE

22

First: The party may issue one or more political newspapers and magazines and establish an electronic website and possess and use all the means of communication to express its opinions and principles in accordance with the Law.

Second: The Editor-in-Chief of a party's newspaper or magazine shall be the responsible for what is published in them.

ARTICLE

23

First: The party may use the mass media to express its perspective and explain its principles and programs.

Second: The services of the State mass media shall avoid discriminating between parties in using their means to express their viewpoints to the citizens.

ARTICLE

24

The party and its members shall be committed to the following:

First: The provisions of the Constitution and respecting the sovereignty of the law.

Second: The principle of the political pluralism and the principle of the peaceful transfer of power.

Third: Non-infringing the State's independence and its security and keeping its national unity.

Fourth: Adopting the principle of equality and equal opportunities among all citizens when holding responsibility or participating in it.

Fifth: Maintaining the public job neutrality and the public institutions and non-exploiting them to fulfill partisan gains.

Sixth: Non-possessing weapons or explosives or its acquisition in violation of law.

Seventh: Providing the Party Department with any updates to its rule of procedures and political program and the names of the founding members and those who affiliated to it when any change occurs.

Eighth: Notifying the Party Department about its activities and relations with the parties and non-Iraqi political organizations.

Ninth: Initiating criminal proceedings against any of its members when they violate the provisions of this Law.

ARTICLE

25

The party, in carrying out its activities, shall refrain from the following:

- First: The organizational and financial connection with any non-Iraqi authority or directing the partisan activity depending on the orders and instructions of any state or external authority.
- Second: The intervention in the affairs of other states.
- Third: The cooperation with the parties prevented by the State or becoming an conduit for other states to intervene in the Iraq's domestic affairs.
- Fourth: The partisan or organizational organization and polarization among the ranks of the army, internal security forces, other security services, judiciary and the independent bodies.
- Fifth: Using the worship places and the State institutions, including the educational ones, to practice the partisan activity or propaganda for or against political party.

ARTICLE

26

First: The party shall keep in its main headquarter the following:

- a. Its rule of procedures.

- b. The registry of members to record the names of the party's members, including the members of the founding body, those affiliated, their addresses and places of residency.
- c. The registry of the decisions issued by the party.
- d. The registry of the accounts to record the party's revenues and expenses.
- e. The registry of the possessions in which the movable and immovable property with its descriptions, numbers and its values are recorded.
- f. Any other registries required by the party's activity.

Second: All registries accredited by the party shall be certified by the competent Department of Notary-Public.

ARTICLE**27**

The party leader and whoever is acting in his/ her capacity shall notify the Party Department about any decision issued by the party concerning its dissolution, integration or any amendment occurring to its rule of procedures within (30) thirty days as of the date of issuance of the decision.

ARTICLE**28**

First: Each political party shall have its own rule of procedures and political program prepared by the party and approved by the Public Body in its first meeting.

Second: The party's rule of procedures shall include the following:

- a. The rules related to its political, organizational, financial and administrative affairs in accordance with the provisions of the Constitution and the Law.
- b. Specifying the address of the main headquarter of the party and its branch headquarters, and any one of them shall not be within the worshipping places or a headquarter of any public, charitable, religious, educational, unionized, military or judicial institution.
- c. The party's rules of the financial order, identifying its resources, the name of the bank where the funds are deposited, procedures organized for disbursement, the rules and procedures of the party's accounts and how to review and approve them and prepare and adopt its annual budget and phases of spending it.

SECTION SIX

ALLIANCE & MERGER

ARTICLE

29

First: Parties shall have the freedom to ally with each other to form a political alliance

Second: Allied political parties shall submit the alliance document to the Party Department for registering it in the register of political alliances. Provided that the documents includes the name, distinctive logo, names of the allied political parties, objectives of the alliance and organizational structure.

ARTICLE

30

Apolitical party may merge with any other political party to form a new political party. The party's registration procedures shall be observed in accordance with the provisions of this law.

SECTION SEVEN

SUSPENSION OF POLITICAL ACTIVITY

ARTICLE

31

Each political party, according to its rule of procedures, may:

First: Suspending its activities.

Second: Dissolving itself voluntarily.

ARTICLE

32

First:

1. A Political party may be dissolved by a decision of the court of jurisdiction, based on a reasoned request submitted by the Party Department in one of the following cases:
 - a. loss of one of the foundation conditions stipulated in articles (7) and (8) of this law.
 - b. Engaging in any activity that violates the Constitution.

- c. Engaging in any military or paramilitary activity.
- d. Using violence in the exercise of its political activity.
- e. Possessing, acquiring or storing military, firearms, explosive or detonating materials at its headquarters, any of its branch headquarters or any other location in violation of the law.
- f. Engaging in any activity that threatens the security of state, its territorial integrity, sovereignty or independence.

2. Any interested party may file a complaint with the Party Department against any party that violates the provisions of this law.

Second: Subsidy to a political party shall be withheld for a period of six months upon a reasoned request by the Party Department and based on a judicial decision if it commits one of the following violations:

- a. Engaging in an act that infringes upon the rights and freedoms of state institutions, other parties, unions, federations and non-governmental organizations.
- b. Interfering in the internal affairs of other countries in a manner that harms the higher interests of Iraq.

Third: The activities of a political party shall be suspended for a period of (6) six months upon a reasoned request from the Party Department if it is proven that it received funds from foreign entities in violation of the provisions of this law. The political party shall be dissolved if this violation is repeated.

Fourth: The court of jurisdiction shall decide on the request submitted in accordance with the paragraphs above of this Article within (30) thirty days as of the date of its submission. The decision of the court of jurisdiction shall be subject to appeal before the federal court.

SECTION EIGHT

FINANCIAL PROVISIONS

ARTICLE

33

The party's funding sources shall include:

First: Membership dues.

Second: Internal donations and grants.

Third: Returns on the investment of its funds in accordance with this law.

Fourth: Financial subsidies from the State's general budget according to the criteria stipulated in this law.

ARTICLE

34

The party may own real estate to establish its headquarters or branches.

ARTICLE

35

First: The amounts of membership dues of the political party shall be fixed, distributed and used in accordance with the rule of procedures and provisions of this law.

Second: The total income collected from membership dues of political party members shall not be subject to a specific ceiling.

ARTICLE

36

First: Upon receiving a donation ,the identity of the donor shall be verified and recorded in the party's donation register.

Second: A list of the donor names shall be published in the party's newspaper.

Third: Donations to the party in the form of material goods or cash intended to generate an illicit benefit for the party or the donor shall be prohibited.

ARTICLE

37

First: A political party may not receive donations from self-funded public institutions and companies or from commercial and banking companies whose capital is partly owned by the state.

Second: All donations sent from foreign individuals, countries or organization shall be prohibited.

ARTICLE

38

A political party may not engage in commercial activities for profit, except for:

First: Publishing, preparing and distributing publications, leaflets or other materials of political and cultural propaganda and bulletins.

Second: Social and cultural activities.

Third: Bank interests.

Fourth: Selling and leasing its own property.

ARTICLE

39

First: The party shall deposit its funds in Iraqi's banks.

Second: The party shall maintain regular accounting records that include its revenues and expenditures.

Third: The party shall submit an annual report of its accounts, prepared by a licensed chartered accountant's office, to the Financial Control Bureau.

Fourth: The Financial Control Bureau shall submit a financial report on financial status of the parties to the Parliament, the Council of Ministries and the Party Department.

ARTICLE

40

The funds of a political party may not be spent for purposes other than its goals and objectives, in accordance with the rules and procedures specified in its rule of procedures.

ARTICLE

41

The party shall refrain from the following:

First: Accepting in-kind or cash donations from any party, association, organization, person or any foreign entity without the approval of the Party Department.

Second: Sending funds or sums to associations, organizations or any foreign entity, except with the approval of the Party Department.

ARTICLE

42

Political parties shall receive an annual financial subsidy from the State budget, which shall be transferred to each party account by the Ministry of Finance.

ARTICLE

43

The Ministry of Finance shall be responsible for approving the annual estimate of the total amount of financial subsidy provided by the State to parties. It shall submit a proposal to the Council of Ministries for deciding on it and including it in the State General Budget Project.

ARTICLE

44

The political Party Department shall distribute the total amount of financial subsidiary to political parties according to the following percentages:

First: (20%) Twenty per cent shall be distributed equally among political parties registered in accordance with the provisions of this law.

Second: (80%) Eighty per cent shall be distributed among parties represented in the Parliament, according to the number of seats won by their candidates in the parliamentary elections.

Third: The provisions of this Article shall be applied in the next parliamentary election cycle.

ARTICLE

45

Financial subsidy to any part shall be suspended in any of the following cases:

First: The party's violation of the provisions of Articles (35,36,37,38,39,40,41) and this is proven by a report from the Financial Control Bureau.

Second: The party's activity is suspended by a decision of the jurisdiction court.

Third: The party voluntarily ceases its political activities.

Fourth: The party voluntarily dissolves itself.

Fifth: The party is dissolved in accordance with the provisions of Article (32) of this law

دائرة الوقائع العراقية / قسم الترجمة

SECTION NINE PENAL PROVISIONS

ARTICLE

46

First: Anyone who establishes, organizes, manages, affiliates or finances an unlicensed political in violation of the provisions of this law shall be punished by imprisonment for a period of not less than six months and not more than one year.

Second: Anyone who establishes, organizes, manages, affiliates, finance, incites, promotes or justify an unlicensed party that espouses takfiri (explained beforehand. Translator), terrorist or sectarian-or-ethnic-cleansing ideology shall be punished by imprisonment for a period of not less than (10) ten years

Third: Upon conviction, the jurisdiction court shall order the dissolving the aforementioned party, the closure of its headquarters and the confiscation of its funds and assets after exhausting all legal appeals.

ARTICLE

47

Anyone who establishes a military organization within the party or links the party to such an organization shall be punished by imprisonment. The party shall be dissolved if it is proven that the party was aware of the existence of such a military organization.

ARTICLE

48

Anyone who violates the provisions of Article (9/ Fifth) of this law shall be punished by imprisonment for a period of not less than six months and not more than one year or by a fine not exceeding (5,000,000) five million dinars or by one of these two penalties beside one-job-grade deduction.

ARTICLE

49

First: Any official or member of the party who unduly accepts or receives, directly or indirectly, money or obtains advantage or benefit from any Iraqi natural or legal person

in exchange for engaging in any activity related to the party shall be punished by imprisonment.

Second: The penalty shall be imprisonment for a period of not less than (6) six years and not more than (10) ten years if the money, advantage or benefit is received from natural or legal foreign person.

Third: The jurisdiction court shall order to confiscate all movable and immovable property obtained from this crime.

ARTICLE**50**

Any official in a political party or organization who sends party's funds to organizations, individuals or any other entity outside Iraq without the approval of the Party Department shall be punished by imprisonment for a period of not less than one year and not more than three years.

ARTICLE**51**

Anyone who engages in any activity, recruitment or party organization within any State institution shall be punished by imprisonment for a period not exceeding one year.

ARTICLE

52

Anyone who engages in any activity, recruitment or party organization within the ranks of the army, internal security forces, other security agencies, the judiciary, the Integrity Commission and (The intended meaning, as we understand it, is (or) not (and). Translator) the Independent High Electoral Commission shall be punished by imprisonment for a period of not less than (6) six months and not more than one year.

ARTICLE

53

Anyone who commits a violation of the provisions of this law for which no specific penalty is prescribed shall be punished by a fine of not less than (1,000,000) one million dinars and not more than (3,000,000) three million dinars.

ARTICLE

54

Anyone who reports the existence of crimes stipulated in this law to the competent authority before the commencement of the investigation shall be exempt from punishment. The court

may reduce this punishment if the report is made during the investigation and this assists in identifying the perpetrators of these crimes.

ARTICLE

55

The provisions of this law shall not prejudice any more severe punishment stipulated in the Iraqi Penal Code No (111) of 1969 or any other law.

SECTION TEN

GENERAL AND FINAL PROVISIONS

ARTICLE

56

Appeals may be filed with the Federal Supreme Court against decisions of the jurisdiction court regarding the dissolution of a political party or the suspension of its activity within (30) thirty days as of the date the political party is notified of the decision or deemed to have been notified. The adjudication of such appeals shall be deemed an urgent matter.

ARTICLE

55

Upon dissolution, the party's property shall be transferred to an entity in Iraq designated by the dissolution decision.

ARTICLE

58

Existing parties at the time this law comes into effect shall adjust their legal status to comply with this law's provisions within a period not exceeding one year as of the date of its entry into force; otherwise, the party shall be considered dissolved.

ARTICLE

59

The Council of Ministers shall issue the necessary instructions to facilitate the implementation of this law after their preparation by the Board of Commissioners of the Independent High Electoral Commission.

ARTICLE

60

First: Political Party Law No. (30) of 1991 shall be repealed.

Second: The dissolved Coalition Provisional Authority Order (Political Party and Body Law) No. (97) of 2004 shall be repealed.

ARTICLE

61

This law shall come into effect (60) sixty days after its publication in the Official Gazette.

Fuad Masoum

President of the Republic