



جمهورية العراق

**الموضية العليا المستقلة للانتخابات**  
**كؤميسونى بالآى سه ربه خؤى هه لؤزارد نه كان**  
**The Independent High Electoral Commission**

Pursuant to the Authority granted to BoC, Article (4) paragraph (Eighth) of IHEC Law No. (11) of 2007 and law of (Political Parties and Entities) (Order No. 97 of 2004), we decided to issue the following regulation:

**Regulation No. (16 ) of 2009**  
**(Complaints and Challenges for CoR Elections)**

**(Preamble)**

The Independent High Electoral Commission (IHEC) was established by Law No. (11) of 2007 to be the exclusive electoral body in Iraq. IHEC is a professional, independent, governmental and neutral body, with juridical personality subject to the supervision of the Council of Representatives.

**Section One**  
**(Terminology)**

The terms stated below indicate the following meanings:

1. Commission : The Independent High Electoral Commission (IHEC)
2. Council of Representatives (CoR): According to Iraqi Constitution of 2005.
3. Supreme Federal Court: A financially and administratively independent judicial body of the federal judicial authority that certifies the election results. It was formed according to law No. 30 of 2005.
4. Board: The Board of Commissioners.
5. Electoral Judicial Panel (EJP): Is a Body of three part-time judges assigned by the Court of Cassation to review challenges referred by BoC, or submitted by those directly affected by the Board's decisions.
6. Political Entity is:
  - a. An organization including a political party. It consists of eligible voters who voluntarily support each other on the basis of common ideas and interests, in order to express their interests, gain power and enable their representatives to run for public position, provided that they obtain IHEC's official accreditation to become a political entity.



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- b. The person, who intends to run for the elections individuals, provided that he obtains IHEC's official accreditation to become a political entity.
7. Kurdistan Regional Electoral Office (KREO): IHEC's Office of Electoral Administration in the Kurdistan Region.
8. GEO: IHEC Office of Electoral Administration in the governorates.
9. Codes of Conduct: IHEC's rules set for participants in the electoral process.
10. Complaints and Challenges: Are the complaints and challenges for different stages of the CoR electoral process.

**Section Two**  
**(Authorities)**

1. The Board has the exclusive authority to resolve disputes that arise during election preparation and implementation. The Board has the right to issue procedures and amendments to this regulation, should there be a need for that, and as per the provisions of the law.
2. The Board can delegate its authorities to the Electoral Administration, in order to resolve certain issues.
3. The Board must refer any criminal issue to the specialized authorities, provided that it possesses evidence of electoral violations that interfere with the elections and referendum processes. Should the Board apply a civil penalty for an electoral violation, doesn't necessarily mean that no criminal penalty will be imposed, as per applicable Iraqi laws.

**Section Three**  
**(Procedures for Submitting Complaints)**

1. Any person (except for electoral observers) has the right to submit a complaint or a dispute.
2. In order to maintain the integrity of the electoral process, the Board will enforce a penalty or apply corrective measures, should there be a breach in the electoral rules, even if no complaints were submitted in that regard.
3. The following conditions must be met when submitting a complaint:



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- a. The complaint must be submitted and signed by the complainant in person, or by his deputy (the person who witnessed the incident which is the subject of the complaint).
  - b. Should the complainant be a Political entity, the complaint must be signed by PE representative.
  - c. A complaint may be submitted during the registration stage and handed to VRC manager or GEO manager. Complaints during the polling process may be handed to PS or PC managers, to the Regional Electoral Office (KREO), GEO manager, or directly to N.O.
  - d. Polling stage complaints must be submitted within 24 hours of the violation.
4. The complaint must include the following information:
- a. Complainant's name, address and contact information
  - b. Name of the person complained of and contact information, if any.
  - c. A detailed description of the alleged violation, including the date, time, place and circumstances of the incident.
  - d. Other complaints pertaining to the electoral process should be submitted to KREO manager, or to GEO manager, who will then refer it to N.O as soon as possible in a confidential manner. The complaints can be submitted directly to N.O
5. The Department of Electoral Advice and Complaints at BoC Secretariat will investigate the complaints. It will submit its recommendation to BoC in coordination and cooperation with KREO and GEOs.
6. The Complaint units at KREO and GEOs will coordinate with the Department of Electoral Advice and Complaints regarding the investigations and recommendations.

**Section Four**  
**(Hearings)**

1. The Board may call witnesses or parties of the incident. Hearings may be public or private, as per the Board's decision.
2. During hearings, the Board may request or receive related evidence (in every possible way).
3. The evidence, received by BoC must be proved and recorded in the BoC meeting minutes. Evidence must be enclosed with the complaint.



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### **Section Five**

#### **(Responding to Complaints)**

1. Should the Board decide that the complaint is based on legal foundations, the complained of will be informed in writing, whenever it is possible. He (the complained of) will be given the opportunity to respond at a date set to present his response.
2. The response of the complained of must be in writing, signed by him or his deputy. Should the complained of be a PE, its president or authorized representative will sign the response.
3. Responses may be submitted to KREO, or any GEO at the region. It must be submitted to the Board in as soon as possible, in a confidential manner.
4. The Board will continue to look into the complaint even if the complained of fails to submit his response. The Board can only take actions after the deadline for the response of the complained of is over.
5. Complaints might be reconsidered in the following situations:
  - a. New evidence is provided
  - b. There was a delay in receiving the response, even if it was submitted within the deadline to the Board.

### **Section Six**

#### **(Adjudicating Complaints)**

1. The Board may reject complaints not supported by adequate evidence, or those complaints which lack a coherent subject, or those that do not meet the formal conditions
2. PEs and individuals are prohibited from submitting malicious complaints, as they violate this regulation and PE Codes of Conduct. Submitting a malicious complaint by the voter or any other body violates the provision of this regulation and is liable to BoC penalties.
3. The Board may refer complaints or parts of it to specialized authorities, as the complaint might fall outside the Boards area of jurisdiction.
4. The Board will look into all submitted evidence impartially, and in a timely manner, ensuring the secrecy of the information



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submitted, except for the right of the parties concerned to know the subject of the complaint.

**Section Seven**  
**(Penalties)**

1. The Board may enforce penalties on any person/ PE that violates any law, regulation, instructions, code of conduct, or decision enforced concerning election preparations and performing it.
2. PEs will be held responsible for any breaches by its members, candidates or agents. Upon determining the suitable penalty, the Board might consider if PE acted with due diligence, to avoid these violations.
3. Should a violation be proved, the Board will enforce the following penalties on the violators:
  - a. Maintain the status quo (before the violation occurred) if possible.
  - b. Financial fine
  - c. Cancel PE's accreditation for the elections.
  - d. Prevent PE from participating in future elections.
  - e. Remove the candidate's name from the elections candidate lists.
  - f. Prevent the person from participating in the elections as a candidate, or as an electoral officer, or as a PE agent in this election or in future elections.
  - g. Suspend or cancel the accreditation of an electoral observation team or an individual in the team in this election or in future ones.
4. The Board has the right to issue an order to recount and sort the ballot papers and count the votes of a particular center, or take any other suitable measure any time prior to results certification.
5. The Board will consider funds collected from financial fines as state revenue.

**Section Eight**  
**(Challenging Elections Results)**

1. Challenges to results are submitted at GEOs, KREO, N.O, or directly to EJP.



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2. The challenge is submitted by PE president or authorized representative. A candidate may submit a complaint if the electoral system has adopted the open list system.
3. Challenges are submitted before the bodies mentioned in Paragraph 1, the same challenge must not be submitted to more than one body.
4. The results will be published once, in at least 3 newspapers, both in Arabic and Kurdish. Challenging the results will be within 3 days, starting from the day following the publication of the results.

### **Section Nine (Implementing Decisions)**

1. The Board's decisions will be implemented during the set timeline. Otherwise, the violator (whether a PE or a person) will be penalized sternly.
2. The Board's decisions (about electoral complaints and challenges) will be published, as per the provisions stated in Paragraph Fifth of Article (8) of IHEC law.

### **Section Ten (Appealing the Board's Decision)**

1. The Board's final decisions may be appealed to EJP, as per provisions of Article (Eighth) of IHE law.
2. All of the Board's decisions must include a notification of the parties' right to appeal the decision.

### **Section Eleven (Effective Date)**

This regulation will enter into force from the date it is approved by BoC  
...13/...8.../2009

**Board of Commissioners**