



جمهورية العراق
الموضية العليا المستقلة للانتخابات
كۆميسونى بالآى سه ربه خوى هه لبرارد نه كان
The Independent High Electoral Commission

IHEC Regulations 2 – UN Unofficial Translation

Pursuant to the powers vested in the Board of Commissioners by virtue of Article 4 paragraph 8 of the Independent High Electoral Commission Law No. 11 of 2007 and the Electoral Law of the Iraqi Kurdish National Assembly Law No. 1 of 1992, we have decided to issue the following regulation

**Regulation No. 2 of 2009
Electoral Complaints and Disputes**

Preamble

The Independent High Electoral Commission was established by Law No. 11 of 2007 to be the exclusive electoral body in Iraq. It is an independent and autonomous, neutral and professional government body subject to the monitoring of the Council of Representatives.

**Section 1
Terminology**

1. “IHEC” or “Commission” means the Independent High Electoral Commission.
2. “Council of Representatives” means [the Council] as mentioned in the Constitution of Iraq of 2005.
3. “Federal Supreme Court” means a financially and administratively independent judicial body under the federal judicial authority, responsible for certifying the results of Council of Representative elections.
4. “Board” means the Board of Commissioners.
5. “Electoral Judicial Panel” means a panel of three judges appointed by the Kurdish Court of Cassation, which may consider appeals against final decisions of the Board, as explained in Article 8 of the 2007 IHEC Law.
6. “Political Entity” means as defined under the Law.
7. “Code of Conduct” means one of the Codes of Conduct adopted for a participant in the electoral process.
8. “Complaints and Disputes” mean complaints and disputes relating to the stages of the electoral process: referendum and elections.



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Section 2 Jurisdiction

1. The Board has exclusive jurisdiction to resolve disputes arising during the preparation, implementation and conduct of elections and referenda. This includes all matters regarding the procedures for the adjudication of election related complaints and disputes. The Board may promulgate any additional procedures or amendments as necessary and consistent with law.
2. The Board may delegate its jurisdiction to resolve particular disputes in the first instance to the Electoral Administration.
3. The Board must refer any criminal matter to the appropriate authorities if it finds evidence of criminal misconduct relating to the integrity of referenda and elections. The imposition of a civil sanction by the Board for an electoral offence does not preclude the imposition of a criminal penalty under applicable Iraqi laws.

Section 3 Submission of Complaints

1. Any voter or organization, other than referendum and election observers, who has a complaint or dispute related to the electoral and referendum process has the right to file a complaint.
2. In order to protect the integrity of the electoral process, the Board may act on its own initiative to sanction or remedy a violation of the electoral rules, even in the absence of a formal complaint.
3. A complaint shall be submitted as follows:
 - a) A complaint must be submitted in writing and signed by the complainant or on behalf of the complainant by someone who witnessed the violation in question, within three days after the occurrence of the alleged violation.If the complainant is a political entity, then the complaint must be signed by an authorized representative of the political entity.



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b) A complaint, during the registration stage, may be submitted to the Registration Centre manager or the GEO manager; and during polling stage, it may be submitted to the Polling Station manager, Registration Centre manager, GEO manager or to the Kurdish Regional Electoral Office direct.

4. A complaint must include the following information:

- a) the name and necessary contact information of the complainant;
- b) the name and contact information of the alleged violator, if available;
- c) a detailed description of the alleged violation including the date, time, place and situation.
- d) signature of the complainant.
- e) Any other complaint relating to the electoral process shall be submitted either to the concerned GEO manager, who will then refer it confidentially to the Kurdish Regional Electoral Office as soon as possible.

Section 4 Hearings

1. The Board may call witnesses, including the parties to the complaint, and conduct hearings, which may be held in public or in private, as the Board deems appropriate.
2. The Board may request and receive evidence at the hearing, in all possible methods.
3. Evidence presented at such hearings should be recorded in minutes of the meeting and kept with the complaint.

Section 5 Response to a Complaint

1. When the Board considers that a complaint may be well founded, whenever possible, the subject of the complaint will be notified in writing and provided an opportunity to respond at a specified time for the submission of a response.
2. The response must be in writing and signed by or on behalf of the respondent. When the respondent is an organization, an authorized representative of the entity must sign the response.
3. A response may be submitted at any Elections Office. Any response received at a Governorate offices or the Kurdish Regional Elections



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Office must be forwarded to the Board confidentially and as soon as possible.

4. The Board may still process a complaint, even if no response has been submitted; the Board may only act after the deadline for the filing of a response has passed.

5. The complaint may be reviewed in the following cases:

- a) If there is new evidence;
- b) If the response was delayed and reached the Board after it had been submitted by the specified time.

Section 6 Adjudication of Complaints

1. The Board may dismiss a complaint that does not establish a *prima facie* case or where the complaint is clearly ill-founded, or does not fulfill procedural requirements.

2. Submission of a false or frivolous complaint by a political entity or by any person will be regarded as a violation of this Regulation and of the Political Entities Code of Conduct; and submission of a false or frivolous complaint by a voter or by any other body will be regarded as a violation of this Regulation and shall be subject to sanction by the Board.

3. The board may refer a complaint or aspects of a complaint that lie outside its jurisdiction to another competent body.

4. The Board will examine all evidence submitted in a timely and impartial manner, ensuring the confidentiality of non-public information submitted to them, except the right of involved parties to know the allegations.

Section 7 Penalties

1. The Board may impose penalties on any person or entity for violating any law, regulation, instruction, Code of Conduct, or other applicable decision relating to the preparation for and execution of an election.

2. Political entities are responsible for violations committed by their members, candidates, or agents. In determining an appropriate sanction, the Board may consider whether a political entity has made reasonable efforts to prevent such violations from occurring.

3. If it is established that a violation has occurred, the Board may order the following in response:



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- a) remedial action;
 - b) the imposition of a fine;
 - c) decertification of a political entity;
 - d) prohibition of a political entity from participating in future elections
 - e) disqualification of a candidate;
 - f) prohibition of an individual from participating as a candidate, political entity agent, electoral official, or observer in this or future elections;
 - g) prohibition or revocation of the accreditation of a group or individual as an electoral observer in this or future elections.
4. At any time prior to the election being certified, the Board may also order that polling be conducted again or that ballots be recounted or take any other appropriate measure.
5. Any money collected from sanctions imposed by the Board should be deposited in the Iraqi General Treasury.

Section 8
Enforcement of Decisions

1. Board decisions shall be enforced within the specific period of time. Otherwise, the violator (whether an entity or individual) will be subject to further sanction by the Board.
2. Board decisions concerning electoral complaints and disputes shall be published in accordance with the conditions stipulated in Article 8 of the Independent High Electoral Commission Law.

Section 9
Appeals and Review of Board Decisions

1. The Board may reconsider a decision after the presentation of new evidence or for any good reason.
2. Final decisions of the Board can be appealed to the Kurdish Electoral Judicial Panel in accordance with the provisions of Article 8 of the Law of the Independent High Electoral Commission, the Fourth Amendment for Kurdistan National Council Elections Law No. 2 of 2009 and according to Rules of Procedure adopted by the Kurdish Electoral Judicial Panel pursuant to Article 8.8 of the IHEC Law No. 11 of 2007.
3. All final decisions of the Board shall include a notice to the parties of their right to appeal.

Section 10



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Enforcement Date

This regulation shall enter into force from the date of its ratification by the Board on

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Board of Commissioners

