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NATIONAL TRANSITIONAL COUNCIL - LIBYA

LAW NO. (4) OF 2012

ON

THE ELECTION OF THE GENERAL NATIONAL CONGRESS

THE NATIONAL TRANSITIONAL COUNCIL UPON TAKING NOTE OF:

The Interim Constitutional Declaration issued on 3 August 2011; and
The Civil and Commercial Procedures Code and its amendments; and
Law No. 24 of 2010 on the provisions of Libyan nationality; and
The Penal and Criminal Procedure Codes.

ISSUED THE FOLLOWING LAW:

CHAPTER ONE: DEFINITIONS

ARTICLE (1)

In this law, the words and expressions listed below shall have the meanings assigned to them unless indicated otherwise through the context.

- 1- The National General Congress [NGC]: an interim Legislative authority elected for the state during the transitional period.
- 2- The Commission: The High Electoral Commission that is established in accordance with the law; it shall undertake the organization, management and supervision of the electoral process.
- 3- The Elections: The election process of members of the National General Congress in accordance with the provisions of this law.
- 4- Constituency: Any Geographical scope to which a specific number of National Congress seats is assigned as per the law.
- 5- Voter Registry: A Registry developed for the registration of voters; of which a detailed statement shall be issued by the Commission specifying the rules for the development of the Registry, as well as voter registration procedures and approved identity verification documents required for registration in the Registry.
- 6- Voter: Any citizen registered in the Voter registry.
- 7- Political Entity: A group of individuals, or apolitical gathering or coalition that submit a list of candidates according to apolitical agreement.
- 8- Candidate: Any citizen that steps forward to occupy a seat at the NGC, and is registered as a Candidate with the Commission.
- 9- Individual Candidate: a candidate competing in a majority electoral system

- 10- List Based Candidate: A candidate submitted by a political entity as part of a list so as to participate in proportional system race, in multiple-seats constituencies
- 11- Voting: the process in which voters cast their votes.
- 12- Sub-Committee: a Committee established by the Commission to manage elections in each sub- district.
- 13- Polling Centre: A place designated by the Commission where voting takes place.
- 14- Polling Station: The place where ballot boxes and cards, as well as staff supervising the [ballot] box, are situated; and it is located inside the polling centre.
- 15- Voting officer: A staff member of the Commission who works in the polling station.
- 16- Ballot Paper: A standardized voting paper which the Commission undertakes its issue.
- 17- Observers: national or international individuals or bodies accredited by the Commission to observe the conduct of elections and to issue reports on the progress of the process.
- 18- Political Entities's Agents: Persons provided by the political entities and accredited by the Commission for the purpose of monitoring the electoral process in accordance with the provisions of the Law.
- 19- Candidate's Agents: Persons provided by an individual candidate, who are accredited by the Commission for the purpose of monitoring the electoral process in accordance with the provisions of the Law.
- 20- Proportional Representation System: An electoral System adopted in multiple-seat constituencies, where a list would win a share of the seats that commensurate with the votes it received.
- 21- Majority System: The electoral system in which the winner is the candidate with the highest number of votes in the constituency.
- 22- Single non Transferable vote (SNTV): One of the majority electoral systems in which voters vote for one candidate only in the constituency; the candidates with the highest number of votes shall be deemed as the winners.
- 23- First Past the Post System: An electoral system adopted in single member constituencies in which the winner is the one with the highest number of votes.
- 24- Closed List: A proportional list system that is based on fixed lists of candidates, where voters are only to express their choices for preferred lists without influencing the order of candidates in any of such lists.

CHAPTER 2: PRELIMINARY PROVISIONS.

ARTICLE (2)

The National General Congress consists of two hundred (200) members elected in accordance with the provisions of this law. All Libyan citizens, men and women, who are eligible according to the conditions stipulated in this Law, shall have the right to nominate themselves for membership of the Congress.

ARTICLE (3)

Elections shall be confidential, transparent, free, direct and public in accordance with the established international standards.

ARTICLE (4)

For the purpose of the implementation of this law, the country shall be divided into constituencies based on population and geography criteria. A special law in this regard shall be issued within two weeks of the issuance of this law. The High Electoral Commission shall undertake the organization, management and full supervision of the electoral process.

CHAPTER 3: ELECTORAL SYSTEM

ARTICLE (5)

A parallel system, which includes both majority and proportional representation systems, shall be adopted so as to elect 200 Members for the National Congress as shown in Articles (6) and (7).

ARTICLE (6)

One hundred and twenty (120) representatives of the National Congress shall be elected by majority system provided that the system for single representative constituencies is FPTP where the winner of the seat shall be the candidate that receives the largest number of votes; SNTV shall be adopted in the case of constituencies with more than one seat; in case of a tie between two or more candidates, a lottery shall take place to determine the winner.

ARTICLE (7)

80 members of the National Congress shall be elected on the basis of proportional representation in closed electoral lists submitted by the political entities in the allocated constituencies.

The distribution of seats will be according to the following steps:

- 1- The electoral average for each constituency shall be determined by dividing the total number of valid votes of a constituency by the total number of seats allocated to that constituency.
- 2- The total sum of the votes for a political entity in that constituency shall be divided by the electoral average; the number of seats shall be distributed among political entities based on the nearest integer to the quotient.
- 3- If seats are still vacant in a constituency, they will be distributed on the basis of the largest remainder.
- 4- In winning lists, seats are allocated in a descending order.
- 5- After the allocation of seats, those seats shall be for political entities and independent lists and not for candidates.

CHAPTER 4: THE RIGHT TO VOTE.

ARTICLE (8)

The Commission shall organize the voter Registry, nationally and abroad; it shall also determine the conditions and regulations for registration and there view of its data.

ARTICLE (9)

Those who exercise the right to vote shall fulfil the following conditions:

- 1- Libyan national and enjoy legal competence.
- 2- Completed eighteen (18) years of age.
- 3- Registered in the voter registry.
- 4- Not convicted of a felony or misdemeanour involving moral turpitude unless rehabilitated.

Affiliates of official Military institutions shall not be entitled to Vote.

CHAPTER 5: TERMS AND PROCEDURES FOR CANDIDACY.

ARTICLE (10)

In addition to the voter's conditions, the following conditions are required for those who are nominated for the NGC elections:

- 1- Completed twenty one years of age.
- 2- Fluent in reading and writing.
- 3- Not a member of the NTC or the interim government; [not] or a former member of the Executive Office or a chairperson of a local council.
- 4- Not a member of the Commission, one of its sub-committees or polling centres committees.
- 5- Fulfil the National Integrity criteria and conditions adopted by the NTC through decision No (192) of 2011. The candidates shall be subject to the endorsement of the high commission for the implementation of integrity and patriotism criteria.

ARTICLE (11)

Nomination for more than one constituency or in more than one list is not permissible; moreover, the combination of list nomination and single nomination is prohibited, otherwise the nomination shall be deemed as null and void.

ARTICLE (12)

The high national election commission shall conduct the organization and management of the electoral process and its supervision. The Commission shall set candidacy conditions and mechanisms; and shall specify candidacy application forms as well as dates for their submission. The applications shall be submitted along with documents specified by the regulations of this law,

ARTICLE (13)

Each nominated list, upon submission of the candidacy application, shall select a

symbol to be endorsed by the Commission.

ARTICLE (14)

Individual system candidates may submit their candidacy applications in one of the majority system constituencies. Political entities shall submit the names of their candidates who are part of the list system in constituencies allocated to the proportional representation system.

ARTICLE (15)

List candidates shall be arranged on the basis of alternation among male and female candidates, vertically and horizontally. Lists that do not respect such principle shall not be accepted. The Commission shall publish samples showing the format of such lists and the method used to arrange the candidates within them.

ARTICLE (16)

Candidates' lists shall be submitted by political entities to the Commission as per the dates set by the Commission, provided that such lists include no less than half of the seats in the constituency and no more than the number of seats allocated to that constituency. The Commission must verify fulfilment of all established conditions by all candidates in the list; it shall also have the right to request the candidates or political entities to provide clarifications and documents, if necessary. All individual candidacy applications shall be submitted in accordance with the forms and dates set by the Commission.

ARTICLE (17)

Should the Commission find that any of the candidates does not fulfil the required conditions, it shall notify the candidates or political entities. The Commission may delete the name of the concerned candidate's name from the List. In all cases, the replacement of the candidate must be with candidates of the same gender.

CHAPTER 6: ELECTORAL CAMPAIGN

ARTICLE (18)

The Commission shall announce through available official media outlets the dates of the electoral campaign for candidates or political entities; it shall specify, in agreement with local authorities across the country, conditions and places for campaign posters throughout the specified period.

Each candidate or political entity included in the final list shall have the right to express their opinions and present their electoral platforms in accordance with the provisions of this Law, and without violating the provisions of the Islamic Sharia and public order.

It is not permissible for any person during the course of the electoral campaign to use expressions that constitute incitement to crimes or violation of public security, or expressions that call for hatred or discrimination.

In any case, all electoral campaign activities must cease twenty-four hours before

polling day.

ARTICLE (19)

The Commission shall set conditions and specifications for campaign materials; the use of public media outlets during the course of the electoral campaign shall be based on equality and equal opportunity for all candidates and political entities on the list. The Commission shall also set the rules and measures of electoral campaigns to what ensures equal shares in the programs allocated to each individual candidate or political entity, as well as the method of time distribution between the different media outlets.

Any Candidate or a political entity may publish their electoral campaign material in the form of booklets, posters or newspapers, provided that such publications carry information identifying the candidate or political entity, as well as name and address of the publisher.

The use of electronic media for the purposes of the electoral campaign is permissible in accordance with the provisions of this law.

ARTICLE (20)

The electoral campaign shall be subject to the following basic principles:

1. Impartiality of the official administration and media outlets.
2. Transparency of the electoral campaign in terms of funding sources and methods of disbursement of allocated funds.
3. Equality between the candidates and political entities.
4. Respect for candidates' physical integrity and dignity.
5. Respect for national unity and sovereignty.
6. Respect for public order and morals.

ARTICLE (21)

Candidate and political entities shall be prohibited from the following:

- 1- Campaigning in places of worship, universities, educational institutes, public and private schools, buildings occupied by ministries, departments and institutions that are public or under the supervision of the State.
- 2- The conduct of any acts, or the use of any data that lead to the obstruction of the electoral campaign of another candidate or political entity.
- 3- The Presentation of in kind or material gifts, or other benefits, in order to buy votes or influence voters.
- 4- Financing electoral campaigns through money or aid obtained from a foreign country or body; or run the campaign through foreign media outlets.
- 5- Receiving any support, or the use of any governmental material.
- 6- Resorting to any means of incitement or defamation against other candidates or other political entities, or provoking tribal or clan fanaticism.

Workers in state institutions are also prohibited from campaigning in favour of any candidates or political entities in their workplace.

ARTICLE (22)

The Commission shall set the expenditure ceiling for the campaign activities per each candidate or political entity, provided that they identify the funding sources for

their electoral campaign.

ARTICLE (23)

The Commission shall verify the compliance with the provisions of the three previous articles; it may also decide the termination of candidacy or election results of an individual candidate or a political entity if it becomes evident that they violated these provisions. In such cases votes shall be re-counted.

ARTICLE (24)

Candidates, or political entitiesâ lists, shall commit to opening a checking account in one of the banks, where they shall deposit cash donations or whatever is allocated to their electoral campaign; they must inform the Commission by providing it with on-going updates on the financial funds deposited into this account as well as their sources. Individual candidates and political entities shall not spend on their electoral campaign from other accounts.

ARTICLE (25)

All candidates or political entities shall commit to submitting a detailed statement to the Commission that includes the total revenue obtained as well as its sources and nature in addition to their expenditure on the electoral campaign, within fifteen days of the announcement of the final elections result.

CHAPTER 7: VOTING PROCEDURES.

ARTICLE (26)

The Commission shall develop procedures for the voting, sorting and counting process in the polling stations and centres.

ARTICLE (27)

The voting process shall last for one day, from eight Oâclock in the morning until eight Oâclock in the evening; the chief of the polling station shall then announce the conclusion of the voting process. The voting process may continue beyond eight O'clock if it becomes evident that there are voters at the polling location who had not cast their votes yet; at such case, voting shall be limited to these voters only. Upon the announcement of the conclusion of the voting process, the sorting and counting of the votes process shall start immediately inside the polling station in the presence of the chief and members of the polling station, as well as the candidatesâ agents and observers.

ARTICLE (28)

The voter shall cast the ballot in complete confidentiality; as such, the voters shall cast their votes for the candidate of the majority system in the box designated for this purpose, and for that of the list system in the other box designated for this purpose. People with Special needs, who cannot cast their votes on ballot cards or orally, as well as illiterate individuals may bring a companion to assist them upon

the approval of the polling centre chief.

Voting by proxy is not permissible unless otherwise allowed by regulations established in this law and under its conditions. Voting by correspondence is also not permitted.

In all cases proxy shall only be given to one person; and no person shall have more than one proxy.

ARTICLE (29)

The Commission shall set the dates and special procedures of voting for Libyans living abroad in countries where HNEC considers the possibility of holding elections

ARTICLE (30)

The Commission shall have the right to cancel the election results of a polling station if it is proven that fraud, manipulation or any act could distort the results of the electoral process according to the regulations established in this law.

CHAPTER 8: APPEALS

ARTICLE (31)

Anyone with interest shall have the right to appeal any of the procedures in any stage of the electoral process within 48 hours of the date on which the appealed incident took place; the appellant shall be exempt from court fees.

ARTICLE (32)

The pro tempore judge of the district court under which jurisdiction the polling centre falls shall examine all appeals related to the whole electoral process. The decision issued by this [court] shall be appealed before of the Head of the primary court within five days of date on which the decision was issued; the issued verdict on the appeal shall be final, and the Commission must implement it.

In all cases, the provisions of the Civil and Commercial Procedures Code shall apply unless stated otherwise in this law.

ARTICLE (33)

The Commission shall prepare, announce and publish the final election results in one of the official media outlets, within a period not exceeding 10 Days from the date the preliminary results are announced.

CHAPTER 9: ELECTORAL CRIMES

ARTICLE (34)

Any of the following shall be punished with imprisonment for no less than three months:

1. Cast a vote while assuming someone else's name.
2. Cast a vote more than once.
3. Cast a vote during the elections while aware that they are not-eligible to do so.

ARTICLE (35)

Any of the following shall be punished with the imprisonment for no less than one year and a fine of no more than 5000 LYD:

1. Used coercion or threat to prevent a voter from casting his/her vote, or to influence voters.
2. Gave, offered or committed to offer to another person a benefit for him/herself or for others in order to persuade him/her to abstain from voting or vote in a certain manner
3. Accepted, or asked for a benefit from others in exchange for voting.
4. Spread or announced false sayings or news on the subject of elections or the conduct of a candidate or an electoral list, or on their ethics, with the intention to influence the outcome of the elections.
5. Carried out any of the printing acts, or circulated ballots cards or papers used in the electoral process without the permission of the Commission.
6. Terminated, concealed, or changed voter registries and ballot papers, or their records or software.
7. Cheated or manipulated in the sorting of votes or counting of papers.
8. Violated the confidentiality of the vote or hindered any of the voting acts.
9. Concealed, embezzled, or destroyed any document relating to the electoral process in order to influence the outcome.

Candidates benefiting from of the offenses set forth in this Article shall be punished with the same penalty of the original actor if proven to have accepted committing such offenses.

ARTICLE (36)

Anyone who offends by signalling the chairperson of the Commission or any of its members, the chiefs of electoral committees or any of their members, or anyone in charge of the electoral process while on duty shall be punished with imprisonment of no less than six months.

Anyone who carries visible or hidden weapons in a polling centre, offices of the Commission, [electoral] committees or polling centres, or in their vicinities, shall be punished with the same punishment.

ARTICLE (37)

Anyone who uses force or intimidation against anyone in charge of the electoral process shall be punished with imprisonment and a fine of no more than 10,000 LYD.

Anyone who damages buildings, facilities, modes of transport or equipment used for the electoral process with the intention to obstruct the electoral process, shall be punished with the same punishment stated above as well as payment of the value of damages.

ARTICLE (38)

Any public official who exploits their job in order to make an impact on the results of the election process shall be punished with imprisonment and removal from office.

ARTICLE (39)

Any candidate who receives funds from a foreign body, directly or indirectly, shall be punished with imprisonment, a fine not exceeding double the received amount, and deprivation of candidature for elections for a period not exceeding 10 years as of the date on which the [court] decision became final.

Any candidate who uses public resources for the electoral campaign shall be punished with a fine of no more than 10,000 LYD, along with the deprivation of candidature for election for a period not exceeding five years; and any public sector employee who commits such act for the benefit of a candidate, or enables a candidate to use [public resources], shall be punished with the same punishment with an increase of no more than one third.

ARTICLE (40)

Anyone who violates the instructions issued by those in charge of the electoral process shall be punished with imprisonment for no more than one month or a fine not exceeding 300 LD

ARTICLE (41)

Anyone who conducts the following acts shall be punished with imprisonment or a fine of not more than 5,000 LYD, and deprivation from candidacy for five years:

1. The use of expressions that constitute incitement on crimes, violates public order, incites hatred or discrimination, express regional or tribal fanaticism, offend public manors or jeopardize the honour of some candidates or voters.
2. Exceeding the ceiling of expenditure on the [candidate's] electoral campaign which is specified by the Commission.
3. Conduct of any action which would obstruct other candidate's campaign
4. Running of campaigns through foreign media outlets with the exception of [the candidate's] own websites.
5. conduct of any campaign activities on polling day
6. The use of places of worship, public building and educational institutions for electoral campaigning.

ARTICLE (41)

The punishments stated in this law shall not prejudice other more severe punishments stated in the Penal Code or any other law.

ARTICLE (42)

Without prejudice to any other description, criminal lawsuit regarding the electoral crimes shall expire after two months from the date on which election results were announced or from the date of the final judicial procedure.

CHAPTER 10: FINAL PROVISIONS

ARTICLE (43)

Monitoring of the entire electoral process shall be undertaken by specialized

regional and international civil society organizations accredited by the Commission, as well as candidates' agents. The Commission shall commit to facilitate their duties in a manner that provides the highest level of credibility with regards to the freedom and integrity of the elections.

ARTICLE (44)

The Chairperson and members of the Commission, heads and members of sub-committees and chiefs of polling centres shall have the authority of a judicial officer regarding the crimes mentioned in this law

ARTICLE (45)

The Commission shall issue regulations for this law explaining all procedures and detailed issues needed for the implementation of this law

ARTICLE (46)

State institutions shall provide all the assistance and support required for the implementation of the electoral process

ARTICLE (47)

The state shall provide security and guarantee the freedom of vote for voters during the electoral process

ARTICLE (48)

This law shall be effective upon its issuance, it shall be published in the official gazette as well as different media outlets; the ministries shall implement its provisions, each according to their areas.

The Interim National Transitional Council.

Issued in Tripoli:

Saturday; 28/01/ 2012