

Comments on the decree 6997 dated 10/01/2002 concerning the establishment of youth and sport associations (organisations) in Lebanon (March 2003).

Introduction:

These are comments on the decree 6997 published in the official gazette on 10/01/2002 defining the rules by which youth, sport, and scout organizations must be established. It must be noted that the French Law was selected for the comparison as an example of a Law respectful of democracy and not because it is to be considered a perfect law. It is to be noted as well that "conditions and prerequisites" for establishing such organizations are not mentioned in most of the laws of countries that respect Human Rights. This implies that the concept of "prior control" and "conditions of establishment" does not exist; as a matter of fact it is a clear violation of the Human rights values notably the freedom of expression and the right to establish associations, and organise peaceful demonstrations.

In the French law for example, as in laws of many other developed countries, there is a difference between two things. The first is the conditions on establishing such youth associations and the second is supervising the activities of such organizations and their fulfilment to some security guidelines to protect the members or participants in any of its activities. One good example would be: "In the case of a potholing association. The ministry should in this case make sure that certain standards of security are kept, like insurance for participants, using proper equipment, adhering to safety measures, and having skilled first-aiders for emergencies".

As for the Lebanese decree, we notice a negative impact on the following levels:

- a- Organizations and their activities as there are many limitations on their activities and establishment.
- b- The relationship between the organisations and the authorities which becomes based on fear and avoidance

This leads to a limited youth participation in the activities of these organizations so as to avoid the ministry's interference which is placing more conditions and this affects negatively the society's development in general.

1) Concerning the establishment conditions and the categories of organizations.

Articles 3 and 4 of the Lebanese decree imposed conditions, for the establishment of youth organizations, concerning the age and the nationality of the members and the founders. This is considered as a breach to the international Human rights instruments and to the Lebanese constitution. Generally, any person has the right to establish an organization. Some of the conditions included in the decree are (article 3):

- There should be a minimum of 7 founders.
- The organizations should have statutes and internal regulations based on the models set by the ministry.

The new Lebanese decree also requires organizations to get accepted first by the Ministry's General director, the Ministry of interior, the Sureté Générale, and other administrations and finally to be authorised by the ministry of youth. This is a set back form the concept of notification (Ilm wa Khabar) which is in the laws on organizations effective since 1909 and an acknowledgement of the concept of "**Authorisation**". These modifications are contradictory with the principle of developing the legal framework of the youth organisations.

The Lebanese decree defines in an exclusive way the categories of youth organizations. These limitations will contribute to the over-shadowing of the bigger part of the society (youngsters). It would prevent them from an active participation in the political, social, and cultural fields. The article 3 forced organizations also to have statutes and internal regulations based on models set by the ministry. This would limit the goals and ambitions of organizations giving it a narrow scope on the levels of efficiency and activities. However, if the aim of this measure is to assist technically the founders, then it is preferable that this measure be "optional" and not "compulsory".

So, unlike articles 3 and 4 of the Lebanese decree, the French law did not place any condition on establishing a youth organization. The only one condition is that the organization goals fit with the public order and morality. The definition of public order and morality and to what extent the organization goals match it is left to be decided by the court of first instance, according to the French legislation. Consequently, the French law regards the establishment of an organization as being a consenting agreement. Thus the only condition to consider it as a judicial entity towards third parties is having this consent between the founding members. Moreover, it did not define the organisations' categories in an exclusive way, but just mentioned non-exhaustively the categories as examples.

2- Concerning the control over the organizations.

According to article 21 of the decree, the Minister of youth and sports can at any time "retrieve the license of an organization" based on a request from the General Director of the Ministry. This can occur without reference to any legal authority, thus allowing political considerations to be behind a given decision.

The Lebanese decree did not mention any possibility to the founders (or members) of any legal action, thus giving unaccepted power to any political party to dissolve a given youth organization. The only action can be taken at the level of the "Administrative State Court" given the fact that the Minister's decision is of administrative nature. This is a violation of the principle that cases related to civil liberties and human rights should always be settled in civil courts and not administrative ones. It also violates article 7 of the Lebanese constitution: "All Lebanese are equal before the law. They enjoy fairly and equally civil and political rights, and they have the same duties and obligations without differentiation". Paragraph 6 of the constitution says: "Lebanon is a parliamentary, democratic republic based on the respect of public freedoms notably the freedom of expression, belief, on social justice and equality in rights and duties to all citizens without any differentiation".

Comparing it to the French law and in case the organization violates the principles of public order or breach the laws, or if the goals of the organization do not match the public morality, the ministry of interior would then revert the file to the Court of First Instance which is entitled to decide whether the goals or the activities are in conformity with public order.

3- Concerning the age conditions of founders and members.

The Lebanese decree, in its article 11, stipulated that the founders and members have to be above 18 years of age. This is a violation to the international convention on children's rights that was ratified by the parliament. Article 15 of this convention states the rights of children to form organizations, become members and participate in their activities.

Any person, corporeal or incorporeal, according to the French law, even minors, has the right to establish a youth organization. Under age founders need however the consent of their guardians according to the same French law.

4- Concerning differentiating between national and foreign organizations and membership of foreigners.

According to article 11 of the Lebanese decree, foreigners are forbidden to establish or become members of youth organizations in Lebanon; bearing in mind that the Universal Declaration of Human rights (1948) gives foreigners and nationals the same political and civil rights. This same principle was confirmed in the international covenant on civil and political rights ratified by Lebanon in 1976.

Comparing to the French law, and after the 1981 modification, there is no differentiation between a foreign organization and a national one. Foreigners are allowed to join and even participate in founding French organizations.

5- Concerning the control over the correspondence and minutes of the administrative bodies' meetings.

The Lebanese decree in article 14 (clauses 3 and 7) imposes an extraordinary control on ordinary organizations with legal and open goals, thus assuming a breach or mistake before it occurs. This control can be clearly seen since the decree requires the organization to present a record of the minutes of the administrative bodies' meetings, and the daily correspondence (mail). This is a breach to the basic principles of personal liberties and social work, and limiting to the work of the organizations and opens the door for political considerations to be settled. It is worth noting that the financial control of the youth organisations has to be within the attributions of the Ministry of finance, as in developed countries, and not to be linked to the Ministry of Interior or to the Sureté Générale.

6- Concerning the non-definition of the "public order":

The concept of public order is wide and different from one context to another. This led most legal systems in the world to appoint a competent judicial authority to interpret the concept of public order in case of any conflict on its meaning. As for the Lebanese decree, it has mentioned the "public order" in more than 10 articles, without defining it or appointing the competent body for this. This paves the way for intervention in the work of organizations with the claim of protecting the public order and thus opens the door for political considerations to be behind administrative decisions.

Conclusion - Non conformity with international Human rights instruments and the Lebanese Constitution

The decree contradicts basic Human rights principles and violates most of the international instruments:

- Universal Declaration of Human rights - 1948.
- International covenant on civil and political rights - 1966.
- International covenant on economic and social rights 1966.
- International convention on child's rights.

As it is known, ratifying a treaty is legally binding for the State party. Moreover, according to article 2 of the Lebanese civil code modified in 1983, the application of these treaties is compulsory even when this is in contradiction with the ordinary laws set by the parliament or the decrees decided by the council of ministers. Thus applying the treaties is only preceded by constitutional rules. Note that the Lebanese constitution, amended on the 21/9/1990 mentioned in article 7 "All Lebanese are equal in rights, civil, and political obligations", in addition to different articles stressing public liberties protection and adherence to human rights instruments.

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