
Legal Regulation of the Residence of Foreigners in Iraq - a study in the context Aliens Residence Law No. 76 of 2017

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Abstract

The international legal system of each state recognizes the state's right to regulate the legal status of people who are subject to its sovereignty and to organize life within its society, and the state is obligated to recognize and respect that system. Iraq, according to Law No. 67 of 2017 on the residence of foreigners, that freedom of movement is one of the basic human rights, and it is natural for a person to be free to move from his country to which he politically belongs to another country. The recognition by states of a certain limit of rights for foreigners has become an international norm without which life would not be upright, as these rights are the basis for the establishment of international relations. The legal status of foreigners is determined according to the national (local) law of the country in which the foreigner's status is to be determined. This determination of the status of foreigners determines the general rights and the aliens' rights as the alien cannot exercise this right unless the national law recognizes it.

Keywords: International, legal, foreigner, foreigners, Residence, Aliens. Law, Iraq, right, Nationality,

1. Introduction

The status of a foreigner is one of the important subjects of private international law, which is linked to nationality in a close relationship, as through it the status of a person in the state is determined and whether he is a foreigner who does not hold its nationality or a citizen who holds its nationality. The need for people to move from one country to another has increased since the emergence of the state system. Therefore, there must be an independent legal system for the status of foreigners concerned with regulating the smooth movement of individuals across borders, and recognizing foreigners to exercise their rights within the territory of the state, and from this standpoint we decided to research the nature of the status of foreigners according to the enforceable Iraqi Foreigners Residence Law No. 76 of 2017, which consists of a set of rules. The legal system regulating the status of a foreigner on the territory of the country to which he does not belong by nationality.

2. Research importance

The research is of great scientific importance, because it deals with the statement of the status of foreigners according to the provisions of the Aliens Residence Law No. 76 of 2017 and in an attempt to know the law in force in detail, due to the importance of the subject in terms of the presence of foreigners on the territory of the state always and in abundance, so the importance of the research appears through an explanation of the provisions of the Aliens Residence Law and a statement of the most important foundations it came with regarding the status of foreigners.

3. Research problem

The research deals with the problem of organizing the center for foreigners in Iraq, by finding out how foreigners practice their normal lives in it! Is it possible to equate them with the patriots in practicing some aspects of life? And how severe are the restrictions imposed on them by the public authorities in the country? All this and more prompted us to this study in accordance with Iraqi law through two independent studies.

4. Research Methodology

In the study of ((Center for Foreigners)), we relied on the applied approach, as we took the Iraqi Foreigners Residence Law in force No. 76 of 2017 as the basis for this study, in addition to a set of Iraqi laws in force that relate to secondary basics that the research is exposed to, and we also touched

on explaining the status of foreigners according to the opinions of The esteemed jurists of law conducted an analytical study, and through that we decided to divide the research into:

The first topic: the concept of foreigners and the general rules governing foreigners.

The second topic - the mechanisms and provisions for regulating the status of foreigners inside Iraq in accordance with the Aliens Residence Law.

4.1 The First Topic

The concept of foreigners and the general rules governing foreigners

A foreigner in relation to Iraq is every person present on Iraqi territory who does not hold its nationality, and the status of a foreigner is one of the important topics of private international law that is closely linked to nationality, through which it becomes clear who is a national and who is a foreigner. There are also general rules that determine the legal status of a foreigner before to start studying the national legislation regulating the status of foreigners, and these rules in their entirety form the general principles in determining the status of foreigners. In order to discuss these general principles, we will discuss in this topic the study of two requirements, as follows:

The first requirement: - Introducing the foreigner, his classifications, and the general principles regulating him

The second requirement: - The authority of the state in determining the status of foreigners and the mechanisms of regulation as a general international rule

4.2 The First Requirement

Introducing the foreigner, its classifications, and the principles regulating it

Taking note of this subject requires addressing the meaning of the foreigner in detail according to the language and the law, leading to the classifications prescribed for it, and then the principles regulating it in two branches, as follows:

4.3 The First Section: The Meaning of the Foreigner and Explaining His Classifications.

The foreigner ((linguistically)) is the distant stranger who does not obey or the neighbor from other than your people, i.e. your neighbor from another people, and the foreigner is derived from (foreign, side, side), which is a word synonymous with the word stranger . As for the legal meaning, a foreigner is someone who does not enjoy the national nationality of a country and does not change the status of a foreigner, whether he is associated with the country through settlement or not, and whether he is a member of the same society or not, as the real criterion in this regard is the individual's lack of legal affiliation with a country. at the moment in which it is intended to define its attribute. The Nationality Law is the one that determines who is a foreigner and who is a patriot. A foreigner in relation to Iraq is someone who does not enjoy Iraqi nationality, and this is what the Iraqi legislature adopted in the annulled Nationality Law No. (43) of 11963 , as well as Nationality Law No. 26 of 2006. It was defined The Iraqi foreign legislator in the annulled Residence Law No. (118) of 1978 defines him as everyone who does not enjoy Iraqi nationality, and the Iraqi legislator confirmed this also in the enforceable Foreigners Residence Law No. (76) of 2017, where he stated in Article 1 thereof that the foreigner is everyone who He did not hold the nationality of the Republic of Iraq . Through the foregoing, it is clear that nationality is the criterion that distinguishes between a foreigner and a national in an adjective attached to the person as an intangible moral matter , and this matter requires a statement of the classifications of the foreigner and who is he?

The foreigner may be a political refugee, that is, the person who is threatened in his country illegally, and he is everyone who holds the nationality of a certain country, but he was forced to leave it for fear of being subjected to torture and persecution as a result of his political ideas and opinions, and the treatment of a political refugee is a special treatment in accordance with the international agreements related to political refugees. The foreigner may also be stateless, as you may encounter in the life of some people who do not have the nationality of any country, such as the gypsies and those whose nationality was stripped as a punishment before they acquired another nationality, so they are called "stateless" and their condition (statelessness) and it is possible to combat This is the case with domestic legislation or international agreements. The foreigner may also be one of the persons entrusted with a diplomatic or consular mission, as they are subject to the conditions specified in the second political agreements and the methods of reciprocity. Thus, this category of foreigners is governed by the common law. The foreigner who is subject to the common law is the ordinary foreigner who has the right to enter, roam, move, and exit.). Thus, the foreigner is the one who does not enjoy the national nationality of a country, and his legal status is determined by a set of legal rules that distinguish them from the nationals in terms of enjoying public and private rights.

The foreigner may appear in two aspects, the first termed as a relative foreigner, which is every person who holds the nationality of a country, so he is a national in relation to the last state and a foreigner in relation to others, and the foreign adjective appears when he moves across borders, while the second is termed as an absolute foreigner, and this term is applied to the stateless, as he is a foreigner in front of all countries Because he does not have the nationality of any of them according to its internal laws .

The Iraqi legislator adopted this, similar to some legislations, such as the Egyptian, the Lebanese and the Algerian, where the Iraqi legislator stipulated in the effective residence law that a foreigner is everyone who does not hold Iraqi nationality, and the Iraqi Investment Law No. 13 of 2006 (amended) also stipulates that a foreigner is one who does not hold Iraqi nationality In the case of a real person, the foreign investor is the person who obtained the investment license and who does not hold Iraqi citizenship if he is a natural or legal person registered in Iraq .

4.4 Section Two: - General Principles Regulating the Status of Foreigners

The status of foreigners in a country is determined by their own set of legal rules that distinguish them from nationals in terms of enjoying public and private rights. Determining this status is based on several legislative sources, the most important of which are domestic law, international law and international agreements. Therefore, the general principles regulating the status of foreigners are represented in the rules approved by the international and domestic legislators to protect the rights of foreigners. The internal law is considered one of the basic sources of the legal rules regulating the status of foreigners, which shows the status of the foreigner in the enjoyment of rights, as each country has sovereignty over its territory and the persons residing therein. Have regional and personal sovereignty exercised together. Where the issue of the status of foreigners is fully linked to the issue of the geographical distribution of individuals (nationality and homeland), because knowledge of equality in rights or lack thereof between nationals and foreigners and between residents requires knowledge of who is a foreigner. Thus, the Iraqi legislator stipulated in his legislation to organize the status of foreigners in the applicable residence law, the nationality law and the law for the implementation of foreign court rulings, in addition to some legislative texts that pertain to foreigners and are included in some special legislations such as the investment law . As for international law, it is considered an auxiliary source in organizing the status of foreigners, as it deals with defining the legal system that governs special legal relations with a foreign element and determining the status of foreigners in a country. The state of legislation for that, hence the importance of studying these rules regulating the case of foreigners, which is termed the status of foreigners in international law. As for the principle of international practices or international agreements, this situation is required by international dealings, and it is mostly expressed through the principle of reciprocity, according to which foreigners in the state and nationals abroad are equal in enjoying a certain right that nationals at home may not enjoy, as if two countries agreed to That each one of them compensate the other's subjects for any harm that befell them, even if it arose from an act of sovereignty, and after the principle of equality, the most common principle in international treatment .

4.5 The Second Requirement

The authority of the state in determining the status of foreigners and the mechanisms of regulation as a general international rule

Each country is competent to develop special legislation for foreigners according to traditional jurisprudence on the basis of the right of sovereignty that guarantees it the imposition of its personal and in-kind jurisdiction over the region. The state. Others base the jurisdiction of the state in determining the status of foreigners on the law of "dual sovereignty", which gives the state legislator the authority to legislate in the name of society by virtue of the necessity resulting from the absence of a general international project. Each country has the freedom to regulate the status of foreigners in its territory, but its freedom in determining the status of foreigners is not absolute, but is restricted by several mechanisms or considerations that we will discuss as follows :

4.5.1 The First Section: The Restrictions Established By International Custom and International Agreements

International custom necessitates that there is a measure of rights without which life cannot be straight, and it must be left to foreigners - as a minimum level - which is known as the minimum limit, and the state may not deprive them of enjoying it, except that the details of this minimum level are a matter of disagreement that has not been agreed upon . The minimum restriction is a certain amount in the state

that the state may not violate, otherwise it will be subject to international responsibility. It is like this a scope that escapes the powers of the national legislator and derives the power of direct binding from the rules and provisions of positive international law . We can find the minimum in the document "Universal Declaration of Human Rights" 1948, which was approved by the General Assembly of the United Nations, where you can say that the foreigner has the right to life, liberty, personal security, fair trial, and the right to asylum, in addition to several other rights included in this declaration in thirty articles .This document enjoys a pure moral value extending from the status of the body that issued it and which supervises the protection and application of the rights stipulated. They have it under an international agreement that may expose it to international responsibility.

4.5.2 Section Two: Restrictions Imposed By the Private Interest of the State

As for the state that does not abide by any treaty or agreement towards other countries and has not violated the minimum of what is required by international custom, it has the freedom to determine the status of foreigners residing on its land in the manner it deems appropriate, which is in accordance with its interests and does not harm it, except that this freedom is also restricted by considerations imposed by its own interest. Which is next.

4.5.2.1 Political, Economic and Security Considerations and the Population Problem

When determining the status of foreigners, the state is affected by the density or scarcity of its place. Economic policy also aims to develop the national wealth. For example, when unemployment is widespread and the labor force is available, the state resorts to preventing foreigners from emigrating to it and preventing them from competing with nationals in their work, in addition to considerations of security requirements where foreigners are They are considered of two types in terms of the security of the state. Some of them are those who fear for the security of the state, and this should not be allowed to enter and reside in its lands, and some of them are those whom the state does not fear for its security and is reassured of his presence, so it welcomes him and gives him permission to enter and reside .

4.5.2. 2 Equality of Foreigners with Nationals

Foreigners are prevented in every country they are found on its territory with a minimum amount of rights, according to international custom, and their countries have the right to protect them if this amount of rights is violated, and it follows from that that the rights assessed to foreigners in international law cannot exceed the rights of nationals, and that the foreigner He does not have the right to aspire to receive from the country in which he resides treatment better than the treatment of the citizens of that country . There may be multiple technical means to achieve equality between foreigners and nationals, so the state takes the negative stance that the legislator refrains from placing any restriction on foreigners in enjoying a right or certain rights, and from this silence equality with nationals is achieved, and also that the laws regulating the practice of some professions are issued without mentioning them. A provision stipulating the requirement of national character in those who practice it, and what is customary in achieving equality is to report it on a condition that is usually contained in the texts of bilateral or group residence treaties that are held between friendly countries, according to which the nationals of each country are treated as nationals in other countries. And if the rights and obligations of foreigners are equal, or if they are wider or less than that, then the common result is that foreigners at the present time have a number of rights that every country is committed to observing.

4.5.2. 3 the Condition of Reciprocity

Countries are affected by the principle of reciprocity to regulate the status of foreigners, as they do not grant foreigners belonging to another country except to the extent that those countries recognize their nationals, as they allow them to enter their lands without a passport, for example, whenever their country allows its nationals to do so, and it allows nationals of a country to enter hospitals and schools If their state recognizes the same rights for its nationals, that is, each state treats the nationals of the other state with the same treatment that it treats its own citizens, and reciprocity does not become binding unless it is contained in an agreement between two or more states and if the internal laws of a state require it, and without that it does not The principle of reciprocity can be adhered to . The condition of reciprocity is determined by the scope of its work in excess of the minimum imposed by the rules of international law, because the minimum benefit from it is for foreigners without the need for a technical regulation that the state puts in its treaty obligations in the face of other countries. The goal in using this legal tool is to achieve equality between foreigners. in the state and its nationals

abroad . This reciprocity is either decided by a treaty or an agreement in which it is agreed that the subordinates of each of the contracting states in the territory of the other state shall enjoy the rights prescribed for the subordinates of the latter, and that it provides for certain rights that the nationals of each state enjoy in these other states, and this is the recognized reciprocity. Diplomatically, reciprocity may be realistically established, as it is not required in this case that there be an international agreement, treaty, or legislative text that allows the nationals of one country to have some rights to recognize the nationals of the last country with the same rights, but it is enough to prove to them that they enjoy them realistically . The condition of reciprocity means that a foreigner enjoys a specific right or rights in a specific country if the legislation of the foreigner's country allows the nationals of that country to enjoy the same rights. The condition of reciprocity may be diplomatic, legislative, realistic, or add other rights, just as reciprocity is not obligatory for the state and is not a prerequisite for the enjoyment of rights by foreigners.

5. The Second Topic: Mechanisms and Provisions for Regulating the Status of Foreigners inside Iraq In Accordance With the Aliens Residence Law No. 76 Of 2017

5.1 The Iraqi Legislature Allowed The Entry Of A Foreign Person Into Iraq And Allowed: To Reside In it, but in a legal and legitimate manner, by following the procedures that the legislator came up with in the Aliens Residence Law No. Procedures, as there are several procedures that a foreigner goes through from the moment he enters Iraq until he leaves it, in addition to a number of rights related to residency, so we will discuss in this topic three demands, as follows:

The first requirement: - the provisions related to the entry of a foreigner into Iraq and his residence in it.

The second requirement: the provisions related to the exit of a foreigner from Iraq and the penalty resulting from this violation.

The third requirement: - Provisions related to the rights and employment of foreigners

5.1.1 The First Requirement

Provisions related to the foreigner's entry into and residence in Iraq

International exchange and the connection of interests necessitate that each country recognizes the right of foreigners to enter its country, and no country has the right to deprive them of that in an absolute and definitive manner, otherwise its action would be a boycott of the international community and does not guarantee its survival Legally, however, this is not absolute, but is restricted by restrictions and procedures that must be observed in order to be legitimate and permissible from the entry of a foreigner into Iraq until his departure from the country, and in order to delve into the depth of these procedures, and who is excluded from them, we will deal with this requirement in several branches, as follows :

5.1.2 The First Section: Procedures for the Entry of Foreigners into Iraq.

Countries, including Iraq, require foreigners to enter their lands to be provided with a passport marked with an entry visa to their lands, in addition to requiring their entry and exit from the legal ports of the country, as the new Iraqi Foreigners Residence Law stipulated in Article (Third / First) thereof, that it is not permissible to enter Aliens from the territory of the Republic of Iraq or their exit from it, except according to the following conditions:

1. To be the holder of a valid passport issued by a competent authority in his country or any other recognized authority, and to be holding a document that replaces the passport issued by a competent authority that authorizes the holder to return to the country from which the document was issued.
2. He must be in possession of an entry visa and an indication of his passport or travel document.
3. To enter or leave Iraq using one of the methods specified in the Passports Law.
4. To fill out and sign the arrival notification form, the form of which the Minister decides. Article 1 of the Iraqi Passports Law in force No. (32) of 1999 (amended) defines the passport as "the document issued by the state to individuals affiliated with it to travel outside Iraq or return to it, and in which their nationality and identity are indicated, and it includes a petition to state and foreign authorities to provide assistance to its bearer." and its inclusion in subjects

and protection” . The Iraqi Foreigners’ Residence Law, in Article 3, also permitted the foreigner to carry a substitute for a passport, such as a laissez-passer, and a travel document issued by the competent authorities to give the bearer the right to return to the country from which that passport or document was issued. Perhaps the reason for that is due to Not to embarrass the country in receiving a foreigner who may be deported in the future without having a visa on his travel document that allows him to return to the country from which he came. It must also be stamped on the foreigner's passport or travel document with a visa that authorizes him to enter Iraq. Perhaps the aim of requiring an entry visa, which is tantamount to a green light for the entry of a foreigner into the territory of the country to which he does not belong by his nationality, is to establish the state's right to exercise its control over incoming foreigners. It imposes its control over them by preventing unwanted foreigners for security, political or health reasons from infiltrating its lands in order to preserve the country's security and stability. Article (1/Second) of the Foreigners’ Residence Law No. 76 of 2017, when defining the entry visa, required that this feature be indicated in the passport that the foreigner holds, and it was previously mentioned that Article 3 of the same law stipulated that the foreigner be in possession of an entry visa marked in his passport or travel document. The features of entry into Iraqi law are distributed in the following types :

1. A regular visa that entitles the bearer to enter Iraq once within three months from the date of its granting and to reside there for a period not exceeding three months, with the exception of truck drivers working to transport goods to and from Iraq, as they are allowed to enter Iraq more than once within a period not exceeding six Months.
2. A transit visa that entitles its bearer to enter Iraq once within three months from the date of its granting, and to stay for no more than seven days.
3. A non-stop visa that entitles its owner to pass for one period of three months without stopping.
4. A political visa granted by instructions issued by the Minister of Foreign Affairs, pursuant to the principle of reciprocity.
5. A service visa granted to persons who hold a service passport according to instructions issued by the Minister of Foreign Affairs, pursuant to the principle of reciprocity.
6. A visitor or tourism visa granted once within three months, and the residence permit is for a period of one month.
7. A compulsory visa that is erased by the foreign residence officer who arrives in Iraq intending to enter and does not have an entry visa.

A foreigner may be exempted from obtaining a visa to enter Iraq according to international agreements to which the Iraqi side is a party, or if the Iraqi Minister of Interior decides to exempt him from them. The Aliens Residence Law No. 76 of 2017 excluded some categories from the application of its provisions to them, namely Arab citizens residing in Iraq and the expatriate who is considered to be of Iraqi origin and holds the nationality of another country. It is also not permissible for a foreigner to enter Iraqi territory from anywhere he wants, but he must enter from legitimate places authorized by the law, as well as exit from them upon leaving the country.

5.2 Section Two: Procedures for Residing Foreigners in Iraq

The state allows a foreigner to enter its territory after completing the necessary legal procedures for the process of entering it. Residence is a right for a foreigner to settle in the territory of a country on a permanent or temporary basis with the intention of practicing a specific activity, provided that it is noted that the settlement of a foreigner in a country is not eternal unless he naturalizes or writes down its nationality after Integration with its society, and the foreigner within the territory of the state is subject to control that the citizen is not usually subjected to. The Iraqi law came with a set of preventive measures to be imposed on the foreigner after entering Iraq, which is registering residence, obtaining a residence permit, renewing residence, and informing the competent authorities when changing the place of residence . The Iraqi legislator has imposed the aforementioned procedures to monitor the movements of the foreigner for fear that he will do an act that harms the public interest of the country, not that he is exempted from these procedures if the foreigner is passing through Iraq, i.e. when his presence in Iraq is an emergency that does not exceed several hours, as in the transit or transit system, It is not allowed for a foreigner to exceed a certain limit within the territory of the state . There are other procedures that are imposed on third parties who shelter a foreigner inside Iraq, and he only has to report this to the competent authorities to inform them of the status of the foreigner within their territory, as the Foreigners’ Residence Law No. The management of hotels, motels, or any other place

in which the foreigner resides, to notify the residence officer of the entry and departure of the foreigner within two days from the date of his arrival or departure. Said period"

5.3 The Third Branch: - Foreigners Who Are Excluded From Entry And Residence Procedures.

The international interest requires exempting some foreigners from submitting to the procedures required for foreigners since their entry into Iraq and their residence in it. Individuals who belong to these categories are not taken into account with regard to the considerations that the legislator takes into account when regulating the residence of ordinary foreigners, but rather the principle of reciprocity and international courtesy is taken into account. Article (1/Third) of the Foreigners' Residence Law in force No. 76 of 2017 specified that the provisions of this law do not apply to:

1. Heads of state, kings, and heads of foreign governments, their family members, and those accompanying them during the visit.
2. Heads of diplomatic and consular missions and their accredited and unaccredited official employees.
3. Those responsible for operating ships, planes and trains coming to Iraq during the period of stay of the plane or ship, provided that the competent Iraqi authority indicates their deportation documents for entry and exit.
4. Passengers of ships and aircraft that dock or land in an Iraqi port or airport if the competent Iraqi authority has authorized them to disembark or stay temporarily in the territory of the Republic of Iraq for the duration of the stay of the ship, plane or train.
5. Who is concerned under international agreements to which the Republic of Iraq is a party?
6. Minors included in the passports of their parents.
7. Residents of the border areas of neighboring countries who enter the territory of the Republic of Iraq by land to carry out their usual work, who are covered by the agreements in force between the Republic of Iraq and their countries, with the knowledge of the Iraqi border authorities.

6. The Second Requirement: Provisions Related To The Exit Of A Foreigner From Iraq And The Penalty Resulting From Violating These Provisions

If the foreigner's residence in Iraq ends, he must leave it, and it is not permissible for the foreigner to permanently settle in Iraq because that is the exclusive right of the Iraqi citizen.

6.1 Section One: Voluntary Exit

A foreigner has the right to leave the country by choice before the expiration of his stay therein, and just as entry is required for a foreigner to obtain an entry visa, it is required for the departure of a foreigner who has work contracts and other obligations to obtain an exit visa, for the provisions of control over the foreigner and to prove his innocence inside Iraq, it is not permissible to He is free to leave the country unless he has fulfilled his legal and financial obligations, that he does not owe a tax or a fee, and he is not accused or a criminal inside the country . Article (15/First) of the Aliens Residence Law No. 76 of 2017 stipulates that "a foreign citizen who has work contracts or other obligations may not leave Iraq except after obtaining a departure visa from the competent authority, which must verify his innocence on the basis of to a document issued by the authority for which he works) , and the Minister may issue instructions specifying the conditions for granting this visa, the authority competent to grant it, and the fee that is collected for it, taking into account the principle of reciprocity, as Article 9 of the same law stipulates that the departure visa is The approval of the competent authority for the foreigner to leave the territory of the Republic of Iraq. The principle is that the foreigner has the right to leave the country at will, and the state has no right to restrict him or prevent him from leaving except with a legal justification that justifies that, or if the state passes through exceptional circumstances that make it compelled to prevent him from traveling outside its country . And this is what the Iraqi legislator did in Article (15/Second) of the Law of Residence of Foreigners in force, as it stipulated that the Minister or whoever he authorizes or the judicial authorities, when there are special reasons related to security or public order, to postpone the departure of a foreigner from Iraqi territory, and Article (43) of the Residence Law imposed The enforceable foreigners shall impose a fine of not less than (50,000) fifty thousand dinars and not more than (100,000) one hundred thousand dinars for anyone who violates the instructions issued in accordance with the provisions of this law.

6.2 Section Two: Compulsory Exit

The Iraqi legislator in the residence law in force defined expulsion as “the return of a foreigner who entered the territory of the Republic of Iraq illegally outside the borders by a decision of a competent authority”. It is noted that the previous text takes two forms: first, driving to the border, and secondly, being present on the territory. In fact, the state’s action or decision to take the foreigner to the border is required by practical reality. The administration constantly suffers from cases of foreigners entering Iraq illegally or staying there illegally. . It shall be in addition to the original penalty prescribed for the crime committed. Therefore, Article (14) of the abolished Foreign Residence Law came, as it authorized the governors of the provinces adjacent to the borders and the director general in other provinces to order the removal of any foreigner who enters the territory of the Republic of Iraq illegally. Deportation may be a means of implementing a judicial ruling that requires the presence of a foreigner to be present on the territory of the state. If the foreigner is governed in accordance with Article (14) with its two paragraphs, then the fifth paragraph of Article (27) of the Law of Residence of Foreigners in force stipulates that “the minister or his authorized representative may deport the foreigner who has entered Iraq legitimately if it is proven that he did not fulfill any of the conditions stipulated in Article (8) of this law or a resident who loses one of these conditions after entering. Based on the foregoing, presence in the region is a complementary penalty that the Criminal Court recommends to be imposed on the foreigner present Illegally in Iraq, or if a crime is committed inside it, and it is added to the original penalty prescribed for the crime committed.

6.3 Section Three: - Deportation of the Foreigner

Article 1, in its second paragraph, of the Foreigners’ Residence Law in force is defined as “the competent authority’s request of a foreigner legally residing in the Republic of Iraq to leave it.” Deportation is a decision issued by the state against a foreigner legally residing on its territory, which includes warning the foreigner of the need to leave its territory within a specified period and coercing him to do so when necessary, as he is not wanted. It is known that the deportation decision is only taken against foreigners in accordance with what is required by international conventions, as it is not permissible to deport citizens from the lands of the country whose nationality they hold, because one of the duties of the state is to achieve the interests of its citizens, so it is illogical for it to work to achieve the public interest of its citizens at the time who drives them out of their homes.

Therefore, the Iraqi constitution stipulates that an Iraqi may not be exiled, deported, or prevented from returning to the homeland. Deportation may take two forms, as for expulsion, which is a procedure described by the public authority in the state to terminate the residence of a foreigner residing on its territory legally (legally) and order him to leave its territory within a specified period because he violated public order or threatened its security and safety. Therefore, expulsion or deportation is a serious measure taken against foreigners who their presence represents a serious threat to public order in the country. Article (27) of the Foreigners’ Residence Law stipulates that “the minister or whoever he authorizes may deport a foreigner who entered Iraq legally under any of the conditions stipulated in Article of this law, or a resident who loses one of these conditions after his entry.” Deportation also takes a second form. It is the response, and it is also called (prevention from entering the territory), as it is a form of deportation, and it is achieved when the authorities do not allow the entry of a foreigner into a territory of a state, due to the inclusion of his name in the lists of those prohibited from entering the country, as he is an undesirable person and his presence poses a threat to the nation and its safety. Article (32) of the Law of Residence of Foreigners in force stipulates that “a foreigner who was previously deported from the territory of the Republic of Iraq may not return to it except by a decision of the Minister, after the reasons for deportation have ceased to exist”. In the end, we must point out that the Iraqi legislator authorized the minister or whomever he authorizes to decide to prevent the entry of any foreigner into the Republic of Iraq for reasons required by the state of security and the public interest.

6.3.1 The Third Requirement

Provisions related to the rights and employment of foreigners

When a foreigner enters and resides in Iraq legally, his presence in Iraq entails a number of rights that he has under the protection of the state, and to find out what are these rights that provide the foreigner with a life in peace, and whether after the right to work they are among them in particular, we will discuss two branches:

6.3.2 The First Section: The Rights of Foreigners in Iraq

The foreigner is an actual member of society since entering Iraq, but his status remains different from that of the national, as he enjoys all the public and private rights enjoyed by the Iraqi citizen, but not in an absolute way. Governance management, such as the right to vote, general legislation, and the formation of political parties. We note that the Iraqi legislator stipulated that the exercise of these rights should be exclusively for the Iraqi citizen. Elections Law No. (16) Of 2005 stipulated that the voter must be of Iraqi nationality, and the candidate must be an Iraqi voter.

As for the Iraqi constitution, it limited the right to participate in political life and enjoy political rights, including the right to vote, vote and run for Iraqi citizens, both men and women . As for the right to employment, we note that the public position is an assignment by the state to a person who is loyal to it absolutely, by assuming a position in one of the state's departments, so the text of Civil Service Law No. (24) of 1960 (amended) in Article stipulates that among those who are appointed to jobs In general, he must be Iraqi or naturalized with Iraqi nationality As for the right to enjoy public freedoms such as the right to personal freedom, expression of opinion, freedom of communication and correspondence, freedom of belief and worship, freedom of movement, and the right to use public facilities, we note that the Iraqi Constitution 2005 regulated these general freedoms for every person without prejudice to public order and morals the public .

As for the special rights, they mean those rights that pertain to the individual as a human being and which result from his existence as a human being and include the right to life, personal security, family life, and the right to work that accommodates all aspects of economic activity. The Iraqi legislature has made foreigners and citizens equal in the enjoyment of all legal actions, such as sale, lease, contracting, and mortgage contracts. Free professions are not absolute, but are restricted by restrictions imposed by the legislator in order to achieve the economic and social interest of the state and to protect the interests of its citizens, unless there is an international agreement stipulating otherwise. As for the right to work and employment, the essentials of life require that the individual be able to enjoy his right to economic activity by working and practicing some free, commercial, industrial and agricultural professions, and that he recognizes the right to deal with others such as buying, selling, renting, mortgage and other necessary legal relations . This is what we will discuss in detail in the second section.

6.3.3 Section Two: Mechanisms And Controls For The Employment Of Foreigners In Iraq.

Article (23) of the Universal Declaration of Human Rights stipulates that (1- Everyone has the right to work, to free choice of work, to just and favorable conditions of work, and to protection against unemployment). The Iraqi Labor Law No. (37) Of 2015 equated the foreign worker who works in Iraq with the Iraqi worker in terms of enjoying the rights and assuming the duties stipulated in this law. As for the instructions for foreigners practicing work in Iraq, they decided not to allow the employer in the private, mixed and cooperative sectors to employ any foreign worker unless he had obtained a work permit.

If the employer proves the society's need for the services of the foreign worker in most of the projects, with no Iraqis replacing him or their few in that project, then the work permit is granted to the foreign worker after the confirmation of the competent security departments that there is no security impediment to the foreigner's employment in Iraq, and the foreigner must Those who are permitted to work in Iraq must submit a written undertaking to train a sufficient number of Iraqis for the work and profession they practice, and the departments or employers must appoint Iraqi assistants whose qualifications are commensurate with the qualifications of the foreign worker for training in his work . In conclusion, it can be said that the Iraqi law restricted work and professions exclusively to Iraqis 6, as it prevented non-Iraqis from engaging in jobs and professions, except that an exception is made from the original if a foreigner is allowed to practice the work mentioned in the law if it requires experience or needs improvement or proficiency and there are no Iraqis who doing it. It should be noted that equating a foreigner with a citizen in terms of enjoying civil rights does not mean that a foreigner acquires the status of citizenship, as a foreigner is someone who does not enjoy the national nationality

of a country, so his equality with a citizen may harm the public interests of the state and the competition of individuals with private interests .

7. Conclusion

At the end of this study, we reached the legal status of foreigners in Iraq according to the Aliens Residence Law No. 76 of 2017 the law focused on women's signs of fire into several findings and recommendations, as follows:

First: The Results

1- A foreigner is someone who does not have the national nationality of a country, and according to Iraqi law, a foreigner is every person present on Iraqi territory who does not hold its nationality, and the foreigner may be a political refugee or a person assigned to a task related to the job, such as work or other things, and he may be stateless, and this is the most common case. Weakness and healing for foreigners, and that determining the status of foreigners is based on several legislative sources, such as domestic and international law, international conventions and customs, which are the basis for regulating the status of foreigners in terms of enjoying rights.

2- Every state has the freedom to regulate the status of foreigners in its territory, but its freedom in determining this status is not absolute, but rather is restricted by several customs and agreements that the state is accustomed to violating, such as security considerations, politics, economics, etc., in addition to the restrictions established according to international norms such as the principle of reciprocity, equality, and the minimum.

3- According to the Iraqi laws, specifically the Aliens' Residence Law No. 76 of 2017, there are several provisions and mechanisms related to the entry of a foreigner into Iraq, such as the passport, visa, residence period and entry visa requirements, but some foreigners may be excluded from it, such as heads of state, diplomatic missions and others who decide to be exempted according to the law. And the instructions in force, and there are several mechanisms related to the foreigner's exit from Iraq. In addition to the deportation decided by the set of laws in force, specifically the Aliens Residence Law, where the alien is deported if he is not wanted in the territory of the state, and the deportation may be expulsion or return according to what the law decides.

4- The presence of a foreigner in Iraq entails several provisions related to the rights and employment of foreigners and their obligations. When a foreigner enters Iraq, he becomes an actual member who enjoys all rights, but not in an absolute manner, but rather restricted to provisions and laws that pertain to the interest of the state and individuals. The foreigner has the right to enjoy Levantine freedom and other public rights. But he is deprived of political rights, such as the right to vote, and Iraqi law allows foreigners to work, but it is restricted by not competing with citizens for the job, as it entails several provisions decided by the laws in force. Acquiring citizenship by a foreigner being a resident of the territory of the state does not mean that he is equal to nationals, as this matter may harm private interests.

Second: Recommendations

1- If a foreigner violates respect for Iraqi society and the laws in force, he is liable to expulsion and deportation, and the expatriate residence law in force has made deportation an act of administration as it is issued by the minister. The foreigner, based on a recommendation from the trial court, in contrast to deportation, therefore we call on the Iraqi legislator to fill the shortfall and appoint a body to adopt the matter.

2- When the new Aliens Residence Law No. 76 of 2017 was issued, it was canceled under the previous Aliens Residence No. 118 of 1978, which decided life imprisonment and the confiscation of movable and immovable money for a foreigner upon his illegal stay in Iraq, but the new law reduced the punishment as it decided a fine. Thus, the penalty for illegal residence of a foreigner has changed from a heavy penalty to a light one, which is a fine, and therefore a foreigner who does an act that affects the security and safety of the state and those who are arrested before the crime is committed will be punished with this penalty, as this matter is very dangerous and harms the interest of the state and individuals, so we hope Reconsider this penalty and work to intensify it.

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