

The Legal System of the Limited Liability Company in Light of Recent Amendments

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ABSTRACT

Objective: This research deals with the legal system of the limited liability company in light of the recent legislative amendments to the Iraqi Companies Law No. (21) of 1997.

Method: The researcher adopted the descriptive and comparative analytical approach to monitor the development and deficiencies in the legal framework. **Results:** The research shows the effectiveness of the new amendments in simplifying procedures, enhancing transparency, and protecting rights by analyzing comparative legal texts and reviewing the impact of these amendments in practice. **Novelty:** The study concludes that the recent amendments have contributed to facilitating the business environment and achieving a better balance between legal flexibility and organizational discipline, but they still need to be further activated through executive regulations and the training of competent administrative and legal cadres.

INTRODUCTION

The limited liability company is one of the most common and widespread forms of commercial companies in various contemporary legal systems. This is due to its unique advantages and characteristics, most notably the ease of incorporation, and the limited liability that avoids partners from assuming obligations that exceed their shares in the capital. These characteristics have contributed to the spread of this type of companies globally, prompting legislators in many countries to develop their own legal systems to keep pace with the requirements of the modern business environment, which is clearly reflected in the recent legislative amendments to the legal system regulating these companies[1].

Research on the subject of "the legal system of the limited liability company in light of recent amendments" is of great importance, given the solutions and remedies provided by these amendments to many of the gaps and challenges that have emerged in the applied practices, whether with regard to the establishment and management of the company, the rights and obligations of the partners, or even with regard to the mechanisms of liquidation and termination of the company's activity[2].

This study is divided into three main chapters, the first of which deals with the general framework of the limited liability company, its concept and characteristics, while the second chapter deals with the establishment and management of the company in the light of recent amendments, while the third chapter deals with the rights and obligations of partners and the procedures for the termination and liquidation of the company, then

the study concludes with a conclusion that includes the most important findings and recommendations.

RESEARCH METHOD

The importance of studying the subject of the legal system of the limited liability company in light of recent amendments is reflected in the fact that it highlights one of the most common and widespread forms of commercial companies in the contemporary commercial and economic reality. This company offers advantages, most notably limited liability, and the possibility of establishing it with relatively simple capital compared to joint stock companies, which encourages investors, especially owners of small and medium enterprises, to choose this type of company to organize their business activity[3].

Also, the choice of this topic is urgent in light of the recent legal amendments made to the Companies Law, as these amendments aim to facilitate incorporation procedures, clarify management and internal control mechanisms, and ensure the protection of the rights of partners and creditors, which requires a specialized scientific study that determines the success of these amendments in achieving their desired goals, and their compatibility with current economic and social requirements[4].

In addition, the importance of the research is clear from a practical point of view, as it is expected that this study will contribute to making recommendations and proposals that benefit the legislative and judicial authorities in developing the provisions of the Limited Liability Companies Law, and addressing any gaps or practical problems that arise after the application of these recent amendments. It will also be a useful reference for investors, businessmen and lawyers in understanding and absorbing these legal changes clearly and accurately[5].

The problem of research and its questions

The problem of this research is to determine the adequacy and effectiveness of recent legal amendments that have been applied to the legal system of the LLC, especially with regard to incorporation procedures, management mechanisms, regulation of partners' rights, and guarantees for the protection of creditors, and to indicate whether these amendments have addressed the problems experienced by the old texts or created new challenges in practical application.

The problem also arises in the required balance between facilitating the investment environment by simplifying procedures and legal flexibility on the one hand, and the need to tighten control and ensure the rights of all parties dealing with the company on the other hand, which is a delicate balance that requires careful legal study.

From here emerge a set of key questions that the research seeks to answer, the most prominent of which are:

What are the most prominent recent legal amendments to the provisions of the limited liability company?

To what extent have these amendments contributed to addressing past deficiencies in the Companies Law?

Did the amendments provide sufficient legal safeguards to protect the rights of partners and creditors?

How have these amendments affected the flexibility of establishing and managing limited liability companies?

Are additional amendments or legislative recommendations needed to fill existing gaps in the application?

The objectives of the research and its approach

This research aims to achieve a set of scientific and practical objectives related to the study and analysis of the legal system of the limited liability company, in light of the recent amendments to the laws regulating it. At the forefront of these objectives is highlighting the legal foundations that regulate this type of companies, and clarifying their legal nature and characteristics that distinguish them from other forms of companies, such as joint-stock and joint-stock companies.

The research also seeks to analyze the texts of recent legal amendments for limited liability companies, and to show their effectiveness in overcoming the problems that the previous texts suffered from, especially with regard to the procedures for incorporation, the determination of responsibilities, and the facilitation of liquidation mechanisms. One of the objectives is also to assess the legal impact of the amendments on the rights of partners and creditors, and to measure the balance achieved between the flexibility of legal regulation on the one hand, and ensuring stability and protecting economic interests on the other.

To achieve these objectives, the research relies on the descriptive analytical approach, by analyzing the legal texts regulating the limited liability company, before and after the amendments, and indicating its changes and shortcomings. The comparative approach is also used, where appropriate, to compare national legislation with other relevant Arab or foreign legislation, with a view to identifying best practices that could be useful in developing the domestic legal framework.

RESULTS AND DISCUSSION

Establishment and Management of the Limited Liability Company in the Light of Recent Amendments

The establishment and management of a limited liability company constitutes a pivotal aspect of its legal and regulatory structure, as it determines the framework within which the company is established and operates, and regulates how decisions are made and the relationship between partners and management is organized. This aspect has witnessed remarkable developments in light of the recent legal amendments to the Iraqi Companies Law, which aimed to simplify procedures, enhance transparency, and control administrative powers to ensure the protection of the rights of partners and creditors alike[6].

Practical practices since the issuance of the Companies Law No. (21) of 1997 have revealed some of the gaps and difficulties faced by those wishing to establish limited liability companies, especially with regard to the complexity of formalities, the difficulty

of reaching satisfactory solutions in the event of disputes between partners, in addition to the ambiguity of some provisions related to the responsibility of directors and their powers and limits. Therefore, the new amendments came to respond to these challenges, through the development of establishment mechanisms, the modernization of management controls, and the introduction of commercial governance concepts in this framework[7].

This chapter analyzes two main axes: the first is the conditions and procedures for establishing the company, with an indication of the flexibility introduced by the recent amendments in formal and documentary aspects; and the second is the organization of management in the company, in terms of the appointment of the director or board of directors, the limits of their powers, and the legal liability resulting from their actions, with an indication of the adequacy of the legal guarantees granted to the rest of the partners in the face of mismanagement or abuse of authority. This chapter thus constitutes an extension of the first chapter in terms of the theoretical framework, and a prelude to the third chapter, which deals with the legal implications of the relationship between the partners and the termination of the company.

Procedures for establishing a limited liability company

A. The substantive conditions for the incorporation of the company (partners, eligibility, capital)

The establishment of a limited liability company requires the availability of a set of objective conditions that are the basis for its legal establishment, these conditions are to determine the number of partners, the availability of their legal capacity, as well as determining the amount of capital and how to distribute it. These conditions have been subject to fundamental amendments in Iraqi law, in response to economic and commercial changes, which made them more flexible without prejudice to basic legal guarantees.

1. Partners

The law requires that a limited liability company consist of one or more natural persons, and its incorporation is permitted to consist of only one person, as amended by the Coalition Provisional Authority by Order No. (64) of 2004. This amendment was in line with modern legislative practices, as applied in laws such as British and French law, and allowed individuals to establish companies legally independent of their natural selves without the need for another partner, which especially encouraged entrepreneurs and individual entrepreneurs[8].

It is also required that the number of partners does not exceed (25) partners, according to Article (29) of the Iraqi Companies Law No. (21) of 1997, as amended, in order to ensure that the company does not become a de facto joint stock company, and to maintain its mixed nature that combines personal and financial consideration.

2. Eligibility

The founding partner is required to have full legal capacity, that is, to be an adult, sane, not interdicted, and not to be convicted of a crime against honor or honesty,

especially if he is going to take over the management. It is also required that they are not persons prohibited from doing business by judicial or legislative decisions.

These conditions are necessary to ensure good faith in incorporation, and to avoid cases of manipulation or the establishment of fictitious companies for the purpose of fraud or legal evasion, which has been stressed by recent amendments by requiring the submission of documents proving the eligibility of the founders and free of precursors[9].

3. Capital

The limited liability company shall have a specific capital expressly mentioned in the memorandum of association, divided into non-tradable shares, the value of each share shall be determined in accordance with the agreement of the partners, whether equally or unequally.

Under the recent amendments, a high mandatory minimum capital has been abolished, and the partners have been given greater freedom to determine it according to the nature of the activity, provided that it is sufficient to achieve the company's purpose and guarantee the initial obligations. This amendment is one of the most prominent manifestations of legal flexibility aimed at facilitating the establishment of start-ups and small companies, and expanding the base of formal business activity[10].

B. Formalities for the incorporation of the company (Articles of Association, Registration and Publicity)

Formalities for the incorporation of a limited liability company are the legal guarantee of the legal personality of the company and its official presence before third parties. These procedures were regulated by the Iraqi legislator in the Companies Law No. (21) of 1997 and its amendments, where it specified the documents and procedures to be followed by the founders. This aspect has witnessed an important development in recent amendments, in terms of simplifying procedures, introducing electronic means, and reducing bureaucracy[11].

1. Memorandum of Association (MOA)

The Memorandum of Association of the Company shall be the basic document by which the LLC is established, provided that this Memorandum is prepared in writing and signed by all partners or their legal representatives. The contract must include mandatory data specified by law, most notably:

- The name of the company and its type statement (a limited liability company).
- Its head office and legal address.
- The Purpose of the Company and the Nature of Its Activity.

The names of the partners, their nationalities, addresses and professions.

- The amount of capital, the number of shares, their value and their distribution among the partners.
- The name of the director or board of directors, their powers and terms of office.
- Profits and losses distribution.
- Assignment of Shares.
- Method of holding meetings of the General Assembly.

The contract is valid only if it meets these data, and the founders may add other regulatory conditions that do not conflict with the law. In some cases, it is required that the contract be ratified by the notary public or the competent authority, according to the applicable corporate system[12].

2. Recording

After the preparation of the Memorandum of Association, the founders must apply to the Companies Registration Department of the Ministry of Commerce, attached to the Memorandum and the necessary documents, such as:

- Request to establish a signatory from the partners.
- Copies of official IDs or documents.
- Receipt for payment of legal fees.
- Evidence of the payment of capital or the provision of in-kind shares.

The competent legal department shall review the application and ensure that all legal conditions are met. If the validity of the documents and the integrity of the procedures are confirmed, a decision shall be issued to approve the establishment of the company, and a number and date shall be granted in the Commercial Register[13].

The recent amendments stipulated the possibility of submitting an application for incorporation electronically, and providing a digital payment service, with the aim of reducing time and cost, and facilitating the establishment of companies, especially in governorates far from the administrative center of the capital.

3. Publicity

The legal incorporation of the company is completed after its official announcement, that is, the publication of the summary of the memorandum of association and the company's data in the official bulletin or the website of the Ministry of Commerce. Publishing is a means of informing others of the establishment of the company and its basic data, in order to achieve legal transparency, and to ensure good faith in future transactions.

The legal personality of the company starts from the date of its registration in the Commercial Register, not from the date of signing the contract, which is confirmed by the law to ensure the clarity of the company's position before third parties[14].

C. The impact of recent amendments on simplifying incorporation procedures

Recent legal amendments have significantly simplified the procedures for establishing a limited liability company, in the context of the Iraqi state's efforts to improve the business environment, encourage the private sector, and attract investments, especially small and medium-sized ones. These amendments came in response to broad demands from investors and legal practitioners who faced bureaucratic complexities and high costs in the traditional procedures in place prior to 2004.

The most prominent of these amendments was the abolition of the requirement for the presence of more than one partner at the time of incorporation, which was approved by Order No. (64) of 2004 issued by the Coalition Provisional Authority, which allowed the incorporation of the company by only one person. This amendment contributed to enabling individuals to practice commercial activity within a legal framework without

the need for a fictitious partner or formal agreements, which enhanced the transparency of legal transactions and the flexibility of establishing individual enterprises[15].

The amendments also eliminated the high mandatory minimum capital that was an obstacle to the establishment of small companies, as partners can freely determine the capital according to the nature of the company's activity, provided that it is sufficient to cover the minimum obligations. This amendment has led to an increase in the number of registered companies, due to the low initial cost required for incorporation[16].

The amendments also included a simplification of administrative and paper procedures, as it became possible to submit applications to establish the company electronically through the portal of the Companies Registration Department in the Ministry of Commerce, and digital documents and electronic signature are accepted in a number of cases, which relieved pressure on reviewers and accelerated the registration process. This was a paradigm shift towards digital transformation, in line with international standards in ease of doing business.

With regard to the Memorandum of Association, the amendments have made it possible to prepare standard forms for formal approval, which reduces the need to use external legal offices and speeds up the approval and review process. Some companies have also been allowed to use the "Quick Start" service according to pre-approved forms when certain requirements are met, such as clarity of business activity and completion of legal documents.

As for advertising, the paper advertisements in the Official Gazette were replaced by electronic advertisements on the Ministry's website, which reduced the time period between the completion of registration and the recognition of the company's legal personality, and reduced the financial costs associated with traditional advertising[17].

Management of the company and the responsibility of managers

Management is the cornerstone of the structure of the limited liability company, as it is concerned with conducting the affairs of the company, implementing the decisions of the partners, and ensuring a balance between their interests and the interests of others. Due to the special nature of this type of company, which combines personal and financial nature, Iraqi law has granted relative freedom in choosing the management mechanism, with legal controls defining the powers and responsibilities of managers, ensuring good governance and limiting the abuse of power. These provisions have been subject to recent amendments aimed at enhancing transparency and accountability.

A. Management Organization in the Limited Liability Company

In accordance with the provisions of the Iraqi Companies Law No. (21) of 1997 and its amendments, one or more directors shall be appointed to manage the company, and this shall be specified in the Memorandum of Association or in a subsequent decision of the General Assembly of Partners. The director may be a partner or a third party, and he is granted the authority to represent the company before the judiciary and others, unless this is limited by a provision in the contract or bylaws[18].

The Director shall be granted broad powers, including the execution of the Company's contracts, the employment of employees, the conclusion of agreements, and

the preparation of financial reports, provided that they do not exceed what is stipulated in the Memorandum of Association. In the event that there is more than one director, the powers may be distributed among them, or managed collectively through the so-called "Board of Directors".

The recent amendments came to emphasize the need to specify the powers of the manager explicitly and in detail in the memorandum of association, and imposed on managers to abide by the limits of the authorization granted to them, especially in fundamental financial decisions such as borrowing or disposing of the company's assets, which contributes to preventing administrative tyranny and strengthening internal control[19].

B. The powers of the directors and their limits in the law

The directors of the LLC shall have broad executive powers enabling them to conduct the day-to-day affairs of the Company, to represent it before official and judicial bodies, and to conclude contracts in its name, unless expressly recorded in the Memorandum of Association or in a decision of the General Assembly of Partners. The Iraqi Companies Law No. (21) of 1997, as amended, regulates these powers and their limits in a way that balances the flexibility of management with the need to protect the interests of partners and others.

In accordance with the provisions of Article (37) of the Law, the Manager shall be considered the legal representative of the Company, and shall have all the powers required by the nature of the business, unless it is recorded in the Memorandum of Association. They include in particular:

1. A implement the decisions of the General Authority of the association.
2. Contracting in the name of the company and commitment to others.
3. Managing accounts and expenses and keeping records.
4. Appointing and dismissing employees and monitoring job performance.
5. Preparing annual reports and financial statements[20].

However, these powers are not absolute, but are limited by several legal and regulatory limits imposed by:

1. Provisions of the Memorandum of Association: The partners in the Memorandum of Association of the Company or the Bylaws may restrict the Manager in some tasks, such as prohibiting the disposal of certain assets or requiring the approval of the General Authority for borrowing or real estate sale.
2. Duty of good faith: The manager is legally obligated to manage the company for the benefit of the partners and not to exploit his position for personal interests or to harm the company.
3. Legal accountability: If the manager exceeds the limits of his powers, whether by making unilateral decisions without authorization or by violating his legal obligations, he shall bear civil liability and may be sued for compensation, and may be referred to criminal accountability if his act is accompanied by fraud, forgery or dishonesty[21].

Recent legal amendments have stressed the need to precisely define the powers of directors within the memorandum of association, especially if there is more than one director. It also stressed the right of partners to monitor administrative performance, and to access records and decisions, which enhances the transparency of management and prevents the abuse of authority.

The most prominent manifestations of limiting the powers of the director in the new amendments are:

1. Preventing the manager from making large borrowings or disposing of immovable property of the company without referring to the partners.
2. Oblige the manager to prepare periodic reports and submit them to the General Assembly or the auditor, if any.
3. The possibility of his removal by the decision of the majority of the partners without the need for a judicial ruling, whenever this is stipulated in the articles of association.

Thus, it is clear that the powers of the director in the limited liability company are flexible to allow him to run the affairs of the company efficiently, but they are surrounded by strict legal restrictions that prevent deviation or exclusivity of decisions, in order to achieve the principle of balance between effective management and the protection of the rights of partners and others.

C. The civil and criminal liability of the directors in accordance with the recent amendments

The legal liability of the managers in the limited liability company is one of the most prominent guarantees that protect the interests of partners and creditors, and ensure the good management of the company. The Iraqi Companies Law No. (21) of 1997, as amended, has allocated a special space for the provisions of civil and criminal accountability for managers, and these provisions have been strengthened more clearly and strictly in the recent amendments, in response to the requirements of good governance and the prevention of administrative corruption.

1. Civil liability

The Director shall bear civil liability if he breaches the duties incumbent upon him, or exceeds the limits of the authorization granted to him in the Memorandum of Association or the law. This responsibility is based on the fulfillment of the following pillars:

- The presence of error or default on the part of the manager (such as entering into an illegal deal or negligent control).
- Damage to the company, partners or third parties.
- A causal relationship between error and harm.

The civil liability entails obliging the director to compensate for the damage caused, whether personally or jointly with other directors, if it is proven that they participated in taking the harmful decision. Recent amendments allow aggrieved partners, or even creditors in some cases, to file a civil lawsuit against the director before the competent

court, regardless of his executive position, as long as it is proven that his administrative or legal duties have been breached[22].

A common example of civil liability is:

- Signing contracts with fictitious names or without authorization.
- Negligence in collecting the company's debts.
- Concealing financial statements that affect partners' decisions.

2. Criminal Liability

The criminal liability of directors arises when violations go beyond the civil nature to constitute crimes punishable by law, and are often the result of:

- Forgery in official documents or accounts.
- Misappropriation or misuse of the company's funds.
- Manipulation of capital or distribution of fictitious profits.
- Carrying out acts that involve misleading shareholders or third parties.

Recent amendments stipulate the need to refer the violating manager to the investigative authorities if the financial statements or audit reports show the existence of fraud or serious irregularities. Provisions have been added requiring the auditor, if any, to inform the competent authorities when any acts constituting criminal offences are discovered[23].

Rights and Obligations of the Partners and the Expiry of the Limited Liability Company in Recent Amendments

The relationship between the partners in the limited liability company is one of the fundamental axes on which the sustainability and legal stability of the company is built. The rights and obligations of partners constitute the framework that regulates their participation in the management, financing and control of the company's business, and precisely determines how they benefit from profits, endure losses, and their position on change, merger and expiration decisions. Therefore, these aspects have received special attention in modern legislation, especially in light of the amendments to the Iraqi Companies Law No. (21) of 1997, as amended.

These amendments came to enhance the guarantees of transparency and fairness in the relationship between the partners, and set more flexible provisions to regulate the assignment of shares, and the right of the partner to be informed and participate in decision-making, in addition to emphasizing precise legal obligations to ensure that the company operates in a manner that does not conflict with the interest of the group. The amendments also focused on regulating the voluntary or forced exits of the partner, and his financial rights upon his withdrawal or the termination of the company[24].

As for the organizational aspect, the amendments also included the procedures related to the termination of the company, whether by the common will of the partners or as a result of the availability of one of the legal reasons such as losses or the issuance of a judicial ruling. The liquidation process has also been organized to ensure the protection of the rights of partners and creditors alike, through strict rules on the sale of the company's assets and the payment of its obligations before the distribution of shares[25].

This chapter is a continuation of what was presented in the previous two chapters, as it moves from the stage of incorporation and management to the stage of internal interaction between the partners, and then to the final stage in which the life of the company ends, which completes the integrated legal picture of the path of the limited liability company in light of recent amendments[26].

A. The rights and obligations of the partners

1. The financial and administrative rights of the partners.

The partners in the limited liability company enjoy a number of financial and administrative rights stipulated in the amended Iraqi Companies Law No. (21) of 1997, which are essential to ensure their effective participation in the management of the company and to benefit from the profits resulting from it, as well as to control the actions of managers and protect their interests in the event of conflict or withdrawal.

2. Financial rights

The most prominent financial rights enjoyed by the partner is the right to receive the profits that the company achieves annually, and this is according to the percentage of its share of the capital. The profits shall be distributed by a decision of the General Assembly, based on the balance sheet and the profit and loss account. It is also permissible to retain part of the profits as a legal reserve or an optional reserve as stipulated in the memorandum of association or the decision of the partners.

The partner also has the right to recover his share in the event of liquidation of the company, after payment of the debts and obligations due, and the distribution is made according to the capital participation ratio. He is also entitled to his share of the undistributed profits in the event that he decides to withdraw or sell his share to another partner or to third parties in accordance with the legal conditions[27].

The recent amendments provide for ensuring that the financial rights of the partner may not be affected except by his decision or by a judicial ruling. The amendments also imposed an obligation on the management to submit periodic financial reports that allow the partners to see the financial situation and make decisions based on accurate information[28].

B. Administrative Rights

The partner in the limited liability company has a set of administrative rights, the most prominent of which is the right to attend the meetings of the General Assembly of Partners, and vote on crucial decisions such as amending the memorandum of association, appointing or dismissing the director, increasing or decreasing the capital, or approving the financial statements. The strength of the partner's voice is determined by the percentage of his share in the capital, reflecting the nature of the company based on financial and administrative balance.

The partner also has the right to access official documents and records, such as annual books of accounts and budgets, which enables him to follow up on management and monitor performance. In recent amendments, the legislator has affirmed this right, considering that its prohibition is a reason to challenge the decisions of the administration or claim compensation[29].

1. The obligations of the partners towards the company and towards third parties.

Although the limited liability company is established on the principle of limited liability of the partners, Iraqi law imposes on them a set of obligations that are essential to ensure the safety of the business and protect the rights of the company and creditors. These obligations are divided into internal obligations to the company, and external obligations to others, and they have been confirmed and expanded in recent amendments with the aim of achieving a balance between legislative flexibility and legal discipline.

Obligations of the Partners towards the Company

A. Payment of Share Capital Value

One of the most prominent obligations is that the partner fulfills the value of his share in the capital in full, whether in cash or in kind, and on time. The late partner is responsible for compensating the company for the damage caused by his delay. The rest of the partners may, as stipulated by law, sell the delayed share after warning the violating partner[30].

1. Non Competition

The partner is obligated not to practice an activity similar to that of the company if it would harm its interests or withdraw its customers. Breach of this obligation is a justification for claiming compensation or requesting the removal of the partner from the company.

2. Commitment to the decisions of the General Assembly:

The partner shall be subject to the binding decisions issued by the General Assembly, as long as they are in accordance with the law and the articles of association. He may not withdraw from these obligations except in accordance with the legal controls regulating this[31].

3. Contribution to cover losses:

If the General Authority decides to reduce the capital as a result of losses, the partner is obliged to accept the new percentage of his share, and may bear the reduction until the share is fully consumed, without extending this to his own funds.

B. Partners' Obligations towards Third Parties

1. Obligation not to harm creditors:

Although the liability of the partners is limited, the law requires them to refrain from any action aimed at harming the interests of the creditors, such as colluding to smuggle the company's funds or signing mock contracts, and this type of behavior is a reason to lift their legal protection, according to the principle of "lifting the legal veil"[32].

2. Assignment of Shares

When the partner assigns his share, he must inform the other partners, and provide the necessary data to the Companies Registration Department. An undisclosed waiver is a breach of a duty of transparency, and may result in a refusal to register.

3. Fulfillment of General Legal Obligations:

Such as tax registration, declaration of financial transactions, and cooperation with the supervisory authorities in the event of an external audit or audit. The recent

amendments oblige partners to provide documents proving the source of their funds upon incorporation, to comply with anti-money laundering legislation.

The impact of recent legal amendments on the promotion and protection of these rights.

The recent legal amendments to the Iraqi Companies Law No. (21) of 1997 constituted a qualitative leap in promoting and protecting the rights of partners in the limited liability company, both financially and administratively. These amendments were aimed at overcoming the shortcomings of the previous legal system, especially with regard to the lack of clarity of procedures, the absence of effective mechanisms for accountability of management, or the unjustified restriction of some of the rights of partners.

A. Enhancing transparency and knowledge

One of the most prominent effects of the recent legal amendments is that they have given the partners an explicit legal right to access the financial statements and administrative records, at any time, without requiring the permission of the director or the rest of the partners. Prior to the amendment, this right was restricted or subject to the diligence of management, which weakened internal control and provided an opportunity to pass financial irregularities or administrative abuses without the knowledge of other partners[33].

B. Protection of financial rights in cases of waiver and expiry

Recent amendments have provided partners with clearer legal safeguards when transferring shares, such as the right of other partners to object to the introduction of a new partner, and the requirement of their approval by majority or unanimity in accordance with the bylaws. This has strengthened the partner's position within the company, preventing encroachment on its closed or personal character[34].

The amendments also stipulated that the partner withdrawing or leaving the company has the right to receive the value of its fair market share upon liquidation or assignment, which protects it from formal or low assessments that may be imposed by the management or controlling partners.

C. Legalization of voting rights and participation in substantive decisions

An important effect of the recent amendments is that they affirmed the right of partners to vote on all fundamental decisions, and prevented the passage of substantive decisions without involving all partners, such as changing the purpose of the company, amending the memorandum of association, introducing a new partner, or selling strategic assets. It obligated the administration to hold the meeting of the General Assembly at regular dates, with the possibility of holding the meeting electronically, which facilitates participation and reduces the absence of some partners from decision-making[35].

D. Guarantees against Management Abuse

The amendments also affirmed the right of the partner to challenge the decisions of the director before the competent court if it is found that they exceed the limits of the

authorization or cause serious harm to the company or the interest of the partners. It was also explicitly stipulated that the General Assembly has the right to dismiss the director by a majority of the partners without the need to resort to the judiciary, provided that this provision exists in the bylaws, which enhances the control of the partners and limits the authority of the management[36].

The end of the company and its liquidation

The completion and liquidation of the company is one of the most important legal stages in the life of the limited liability company, as it represents the end of its legal personality and the end of its commercial activity in an orderly manner that guarantees the rights of partners and creditors. The amended Iraqi Companies Law No. (21) of 1997 addressed this issue in a number of legal articles that have been subject to recent amendments, with the aim of addressing deficiencies and simplifying procedures, achieving a balance between accelerating the termination of inactive companies, and protecting the financial and legal rights of related parties.

1. Causes and cases of termination of the limited liability company.

The legal entity of the LLC, like other business entities, is at an end stage leading to the loss of its legal personality, the liquidation of its funds and the termination of its legal relations. The Iraqi Companies Law No. (21) of 1997, as amended, stipulated specific reasons for the termination of the company, whether voluntary reasons based on the will of the partners, involuntary reasons as a result of legal or judicial circumstances, or reasons related to the public interest or the reality of commercial activity.

A. Voluntary reasons for the company's termination

1. Expiry of the period specified in the Memorandum of Association:

If the company is incorporated for a fixed term, it automatically lapses at the expiry of that term, unless the partners agree to extend it before its expiry. This is one of the most prominent forms of voluntary termination based on prior agreement[37].

2. Achievement of the company's purpose or impossibility to achieve it:

If the company is established for a specific purpose, such as the implementation of a specific project, the achievement of this purpose leads to the end of the company, and the impossibility of implementing it – for legal or factual reasons – is a reason for expiry[38].

3. Partners' Agreement to Dissolve the Company

The partners may, in accordance with Article (147) of the Companies Law, take a decision to dissolve the company at any time, provided that a majority representing at least three quarters of the capital is approved, unless the Memorandum of Association provides for a different majority[38].

4. Merger of the Company into Another Company

The merger of the company with another entity results in the demise of its legal personality, whether this is done by incorporation or union, which is one of the voluntary reasons if it is carried out with the consent of the partners.

B. Involuntary or Judicial Reasons

1. Issuance of a Judicial Ruling to Dissolve the Company

Any partner or concerned entity may request the competent court to dissolve the company if it is proven that there are serious reasons, such as the occurrence of fundamental disputes between the partners, serious mismanagement, or violation of the law. The judicial ruling is one of the most powerful means of compulsory expiry[39].

2. Significant Loss of Capital

If the company loses most of its capital and the partners do not increase or reduce it, its continuation is illegal, and the partners or creditors may be required to dissolve it, in order to protect their interests.

3. Survival of one partner contrary to law:

If the company consists of more than one partner and then one partner remains without modifying its legal status, this is considered a reason for its termination after the expiry of the legal period stipulated in the legislation.

C. Administrative reasons under recent amendments

Recent amendments to the Iraqi Companies Law introduced the concept of administrative dissolution, which is practiced by the Companies Registration Department when cases such as:

- Failure of the company to start its activity within one year of its registration.
- Suspension from practicing the activity for two consecutive years without providing legal justifications.
- Refraining from submitting financial statements or renewing its record.

This procedure is a regulatory mechanism to clean the commercial register of "inactive" or "fictitious" companies, which enhances confidence in legal transactions and prevents the manipulation of the company's legal personality[40].

Liquidation procedures in accordance with the new legal amendments.

The liquidation phase represents the executive side of the lapse of the limited liability company, as it aims to settle the legal and financial status of the company, by collecting its funds, paying its debts, and distributing the remaining assets to the partners. The Iraqi Companies Law No. (21) of 1997 and its amendments have regulated the liquidation procedures in detail, and these procedures have undergone recent legal amendments aimed at enhancing transparency, ensuring justice between partners and creditors, and preventing the abuse of the post-dissolution phase.

1. Appointment and powers of the liquidator

Under Article (150) of the Companies Law, the Company shall appoint a liquidator who shall manage its affairs during the liquidation phase. The liquidator shall be appointed either:

- By a decision of the General Assembly of Partners if the solution is voluntary,
- Or by a court decision if the dissolution is judicial or administrative.

The liquidator is required to be a natural person with full legal capacity, and not a person who has been sentenced to bankruptcy or dishonesty[41].

The powers of the liquidator include:

- Inventory of the company's funds and assets.
- Collection of debts owed to it.
- Settlement of the obligations arising therefrom.
- Legally represent the Company in the liquidation phase.
- Selling assets and distributing their output to creditors and partners[42].

The recent amendments have obliged the liquidator to open a separate bank account in the name of a "company in liquidation", in which the proceeds of sales and collections are deposited, and which is used exclusively to cover debts and legal expenses.

2. Basic Liquidation Steps

a. Notify the official authorities:

The liquidator shall inform the Companies Registration Department of the decision to dissolve, and provide a copy of the liquidation decision, to include the name of the company in a special register with the phrase "under liquidation", and this shall be announced on the official website.

b. Preparing a detailed inventory:

The liquidator shall undertake the inventory of the company's property, assets and liabilities, with the preparation of an official list approved by the partners or the court.

c. Debt Collection and Payment of Obligations:

The liquidator collects the company's dues with third parties, and then pays the debts according to the order of preference (taxes, workers' wages, commercial debts, partners' rights).

d. Assets

The company's assets may be sold by auction or by mutual consent, and this must be in accordance with the principle of transparency and at the market price, taking into account the interests of creditors.

e. Preparation of Periodic and Final Reports

The recent amendments require the liquidator to submit periodic reports (every 6 months) on the progress of the liquidation process, in addition to a final report explaining the final result of the liquidation and how the funds are distributed[43].

f. Distribution of the remainder to partners:

After the payment of debts, the remainder of the assets shall be distributed to the partners according to the percentage of their shares in the capital, unless the Memorandum of Association stipulates otherwise.

3. Closing the company and removing it from the register

After the completion of all liquidation work, the liquidator submits a formal application to the Companies Registration Department to remove the name of the company from the commercial register, attached to the final report and the documents proving the settlement of debts and the distribution of funds. The company shall not be

considered permanently terminated except from the date of issuance of the formal cancellation decision.

The amendments stressed that the failure to submit the final report within a year from the start of the liquidation is a serious administrative violation, which requires fines to be imposed on the liquidator or his judicial obligation to terminate the procedures within a specified period[44].

4. Legal Guarantees During Liquidation

Among the most prominent features of the recent amendments are:

- Prevent the distribution of any profits to the partners before paying all the debts of the company.
- The right of creditors to object to liquidation proceedings before the court.
- The possibility of dismissing the liquidator if his default or violation of the law is proven.
- Financial documents must be deposited in the government archive for a period of five years after completion.

Effects of liquidation on partners and creditors

The liquidation phase constitutes a turning point in the life of the LLC, during which the legal personality of the company ends and all rights and obligations are settled. This stage has direct legal implications for two main parties: partners as owners of capital, and creditors as holders of financial rights in the company. The recent amendments to the Iraqi Companies Law No. (21) of 1997 amended to enhance the protection of the parties and prevent harm to their interests during liquidation.

A. Effects of liquidation on partners

1. Restriction of Partners' Actions

Once the company enters the liquidation phase, the partners lose their authority to manage the company, and all powers are transferred to the liquidator. No partner has the right to interfere in the affairs of management or to dispose of the assets of the company, and it is prohibited to introduce new partners or amend the memorandum of association after the issuance of the liquidation decision[45].

2. Distribution of profits

Any financial distributions to the partners shall be suspended until the full payment of the company's debts is completed, and any distribution made before that shall be void and the recipient shall be obligated to return it to the creditors[46].

3. Right to the Remaining Share

After the completion of the liquidation process and the payment of all obligations, the remainder of the company's funds shall be distributed to the partners in accordance with the percentage of their shares in the capital, unless otherwise stipulated in the Memorandum of Association. This is one of the ultimate financial rights enjoyed by the partner.

4. Right of Control During Liquidation

Under the recent amendments, the partners have the right to view the liquidator's reports and hold him accountable for any suspicious behavior, and they have the right to

request his judicial dismissal if he violates his duties or behaves in a way that harms their interest[47].

B. Effects of Liquidation on Creditors

1. Freezing Creditors' Right to Individual Enforcement

When liquidation begins, creditors are prevented from taking individual actions to collect their debts, and they must register their claims with the liquidator, who settles them in order of priority, enshrining the fair principle of "collective liquidation"[48].

2. Priority Payment

Some creditors, in accordance with the law, have priority in repaying their debts, such as the state (taxes), employees (salaries), and then the rest of the commercial creditors. No payment shall be made to the Partners prior to the settlement of such claims.

3. Right to object to liquidation proceedings

Recent legal amendments provided for the right of creditors to challenge the actions of the liquidator before the court, especially if it was proven that the sale of assets was made at an unfair price, or there was a suspicion of favoritism for one of the partners. The creditor can demand the redistribution of funds or the replacement of the liquidator.

4. Protection against asset smuggling

The recent amendments imposed strict restrictions on the liquidator's disposal of the company's assets, such as preventing him from selling cheaply, or distributing any funds before payment, which is an important legislative development to protect creditors from damage or manipulation[49], [50].

CONCLUSION

Fundamental Finding : This study highlights that the limited liability company represents one of the most important legal forms that allowed investors, especially owners of small and medium enterprises, to operate within a legal framework that provides them with protection from financial risks, through the principle of limited liability. The research showed that Iraqi legislation, especially the Companies Law No. (21) of 1997 and its amendments, has kept pace with the development of this type of companies, especially after the introduction of fundamental amendments aimed at enhancing the business environment and achieving a balance between regulatory flexibility and legal control. The recent legal amendments to the Iraqi Companies Law have effectively contributed to simplifying the procedures for establishing limited liability companies and making them more compatible with the requirements of the contemporary investment environment. The amended system enhanced the protection of partners and creditors alike, through a more precise regulation of rights and responsibilities within the company. The liquidation phase is subject to stronger legal and financial control than previously, which prevents the misuse of the legal personality of the company or the smuggling of its funds before expiry. **Implication :** The findings indicate that the reforms to the Iraqi Companies Law have practical implications for improving the ease of doing business, particularly for small and medium enterprises that require both operational flexibility and robust legal safeguards. By simplifying

incorporation procedures, removing unnecessary capital requirements, expanding managerial powers under legal oversight, and strengthening liquidation controls, the amendments encourage investor confidence and promote a healthier business climate. The enhanced regulation of rights and responsibilities, coupled with improved protection for creditors and partners, contributes to greater stability in corporate operations and mitigates the risk of abuse in company dissolution processes. **Limitation** : While the legislative amendments have addressed several procedural and regulatory gaps, the study notes that there remain challenges in ensuring uniform application and interpretation of these provisions across different administrative bodies. The absence of a unified executive regulation can lead to discrepancies in practice, which may reduce the effectiveness of the reforms. Moreover, the reliance on existing institutional capacities for implementation may limit the full realization of the intended benefits, particularly in areas requiring technical modernization and consistent legal training. **Future Research** : Future studies could explore the long-term impact of the recent amendments on the actual performance and sustainability of limited liability companies in Iraq, particularly in relation to investor protection and market competitiveness. Research could also examine the effectiveness of digital transformation measures, such as electronic incorporation and online liquidation, in reducing administrative burdens and enhancing transparency. Additionally, further work might focus on comparative analyses with other jurisdictions that have implemented similar reforms, assessing how legal structures and procedural innovations can be adapted to the Iraqi context to further improve corporate governance and business environment outcomes.

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