

COALITION PROVISIONAL AUTHORITY ORDER NUMBER 91

REGULATION OF ARMED FORCES AND MILITIAS WITHIN IRAQ

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolutions 1483 and 1511 (2003),

Recalling that U.N. Security Council Resolution 1483 (2003) calls upon the CPA to promote the welfare of the Iraqi people through the effective administration of the territory, including in particular working towards the restoration of conditions of security and stability,

Noting that the former oppressive regime of Saddam Hussein has been removed,

Further noting the adoption of the Law of Administration for the State of Iraq for the Transitional Period on March 8, 2004,

Further noting that Article 27(B) of the Law of Administration for the State of Iraq for the Transitional Period provides that “Armed forces and militias not under the command structure of the Iraqi Transitional Government are prohibited, except as provided by federal law,”

Acknowledging that those who fought against the Ba’athist regime in resistance forces should receive recognition and benefits as military veterans for their service to their people,

Intending to give such individuals the chance to further themselves, support their families, and serve their peoples by pursuing civilian lives and jobs,

Considering that the Iraqi Armed Forces and other Iraqi security forces are in need of trained and experienced professionals,

Desiring to establish a mechanism that will ensure armed forces and militias come into compliance with the Law of Administration for the State of Iraq for the Transitional Period,

I hereby promulgate the following:

Section 1 Definitions

- 1) “Administrator” means the Administrator of the Coalition Provisional Authority and, following transfer of full governance authority to the Iraqi Interim Government, the civilian head of the Iraqi government exercising national command authority, or his or her designee, unless otherwise designated.
- 2) “Armed Force” means an organized group of individuals bearing firearms or weapons. The term “Armed Force” includes government forces and Militias.
- 3) “Militia” means a military or paramilitary force that is not part of the Iraqi Armed Forces or other Iraqi security forces established pursuant to CPA Orders, Regulations and Memoranda, or pursuant to Iraqi federal law and the Law of Administration for the State of Iraq for the Transitional Period.
- 4) “Private Security Company” means a private business, properly registered with the Ministry of Interior and Ministry of Trade that seeks to gain commercial benefits and financial profit by providing security services to individuals, businesses and organizations, governmental or otherwise. Private Security Companies are subject to, and must comply with all applicable criminal, administrative, commercial and civil laws and regulations unless exempted by CPA Order Number 17, “Status of Coalition, Foreign Liaison Missions, their Personnel and Contractors.”
- 5) “Illegal Armed Force or Militia” means an Armed Force or Militia existing in violation of the prohibition contained in Section 2 of this Order.
- 6) “Residual Element” means the parts of a former Armed Force or Militia under an approved Transition and Reintegration Plan that are still extant and drawing down during the period of transition and reintegration and that are regulated by the relevant governmental authorities in accordance with this Order and the Transition and Reintegration Plan for that Armed Force or Militia.
- 7) “Qualified Member” means a member of a Residual Element who:
 - a) is specifically identified by an Armed Force or Militia, at the time the Armed Force or Militia’s command becomes subject to a Transition and Reintegration Plan, as having been a member of the Armed Force or Militia on or before May 1, 2003;
 - b) has not engaged in terrorist activities or violated the laws of war or Iraq’s recognized principles of human rights;

- c) has not been convicted of a felony offense under the criminal laws of Iraq after May 1, 2003;
 - d) is not acting as an agent of a foreign government; and
 - e) continues at all times to meet the criteria for qualification set forth herein.
- 8) “Transition and Reintegration Plan” means a documented and recorded plan that sets forth milestones and processes for the complete transition and reintegration of a Residual Element of an Armed Force or Militia.

Section 2 Prohibitions

Armed Forces and Militias, and membership therein, are prohibited within Iraq, except as provided for herein.

Section 3 Exceptions

- 1) The prohibition contained in Section 2 shall not apply to:
- a) Armed Forces and members thereof under the control of the CPA (or, following transfer of full governance authority, the Iraqi Interim Government and any future Government of Iraq) including, but not limited to, all security forces under the control of the Ministry of Interior and the Iraqi Armed Forces under the control of the Ministry of Defence;
 - b) Armed Forces specifically permitted under the Law of Administration for the State of Iraq for the Transitional Period;
 - c) Armed Forces and members thereof under the operational control of the Commander of the Multinational Force operating in Iraq pursuant to United Nations Security Council Resolution 1511, and any relevant subsequent resolutions;
 - d) A Residual Element currently and continuously meeting the criteria set forth in Section 4.5, to include members thereof. Those Residual Elements currently meeting the criteria for an exception under this Section 3.1(d) are listed in Annexes A, Armed Forces, and B, Militias; and

- e) A Private Security Company or the officers and employees of such Private Security Company, provided the Private Security Company meets all of the following criteria:
 - i. the Private Security Company is properly licensed and regulated by the Ministry of Interior and Ministry of Trade;
 - ii. all firearms and weapons used by the Private Security Company are licensed in accordance with applicable CPA Orders, Regulations, and Memoranda, and Iraqi laws and regulations; and
 - iii. all company officers, armed members, and supervisors exercising control of armed members of the Private Security Company have undergone background checks conducted by the Ministry of Interior and possess the requisite weapons authorizations issued by the Ministry of Interior.

- f) Those contractors covered by CPA Order Number 17.

Section 4
Transition and Reintegration of Residual Elements of
Armed Forces and Militias

- 1) Only Armed Forces and Militias that are identified by the Administrator or after the transfer of full governance authority the Transition and Reintegration Implementation Committee as participating in the political process leading to a peaceful, prosperous, and progressive Iraq will be considered eligible for Residual Element status and for transition and reintegration in accordance with this Order.

- 2) In order to attain the status of a Residual Element, a Transition and Reintegration Plan must be accepted by the commander, head or leader of an Armed Force or Militia, and the Administrator or after the transfer of full governance authority the Transition and Reintegration Implementation Committee. The plan must include:
 - a) a complete list of Qualified Members, including all members of the Residual Element, and such list must be provided to the Iraqi Veterans Agency;

 - b) the processes by which all of its Qualified Members will be transitioned or reintegrated; and

 - c) clearly defined milestones for completion of the transition and reintegration of the Residual Element.

- 3) Only the Administrator or after the transfer of full governance authority the Transition and Reintegration Implementation Committee may decide to confer Residual Element status to an Armed Force or Militia. Upon approval of the Transition and Reintegration Plan, the Armed Force or Militia shall become a Residual Element.
- 4) Once a Transition and Reintegration Plan has been approved by the Administrator or after the transfer of full governance authority the Transition and Reintegration Implementation Committee, processes and milestones may be revised only with the consent of the Transition and Reintegration Implementation Committee.
- 5) Residual Elements of an Armed Force or Militia qualify for the exception in Section 3.1(d) once there is an approved Transition and Reintegration Plan. Continued qualification for the exception in Section 3.1(d) is dependent upon meeting all of the terms of the applicable Transition and Reintegration Plan, and complying with the following conditions:
 - a) All Qualified Members of the former Armed Force or Militia registered with the Iraqi Veterans Agency as members of the Residual Element. The Iraqi Veterans Agency shall provide this information to the Ministry of Interior immediately upon registering a new Residual Element.
 - b) The Residual Element shall not recruit or otherwise add members, either to its active forces or to its reserve or stand-by forces.
 - c) The Residual Element shall not conduct operations or activities of any type, whether armed or unarmed, without express advance authorization from the Ministry of Interior and the Commander of the Multinational Forces operating in Iraq pursuant to United Nations Security Council Resolution 1511, and any relevant subsequent resolutions.
 - d) The Residual Element shall not organize, support, or participate in criminal activity, undertake any effort designed to destabilize any portion of Iraq, promote violence, or otherwise threaten the safety and security of the Iraqi people.
 - e) The Residual Element and all of its members must promptly register all firearms and weapons with the Ministry of Interior in accordance with CPA Order Number 3 (Revised/Amended), Weapons Control, dated December 31, 2003, and any other applicable Iraqi laws.
 - f) The Residual Element shall not manufacture, purchase, or otherwise acquire additional firearms, weapons, or ammunition; nor shall the Residual Element's

members acquire firearms, weapons, or ammunition for use in Militia activities; nor shall the Residual Element or its members import firearms, weapons, or ammunition into Iraq from a foreign country, or hire others to do so on their behalf.

- g) The Residual Element and its members shall not endorse, finance, or campaign for candidates for political office at any level.
 - h) The Residual Element shall be subject to and fully cooperate with such actions as the CPA or government of Iraq following transfer of full governance authority deems necessary to verify compliance with the accepted process and ensure transparency and accountability of the Residual Element's members, functions and operations during the period of transition and reintegration.
- 6) During the period of transition, the Transition and Reintegration Implementation Committee is responsible for determining if a Residual Element fails to comply with any of the milestones, processes or conditions set out in the agreement required by Section 4.5. A determination that a Residual Element has failed to comply with its Transition and Reintegration Plan disqualifies the Residual Element and all of its members from the exception in Section 3.1(d) and results in re-designating the Residual Element as an Illegal Armed Force or Militia, pursuant to Article 7 of this Order. However, if a Transition and Reintegration Plan is rendered unachievable due to changes in the availability of positions for Residual Element members in any component program, then the Transition and Reintegration Implementation Committee may adjust the Transition and Reintegration Plan, and the Residual Element will not be deemed to have failed to comply with it. Such adjustments will be limited to changes in transition and reintegration schedules, and in particular will not permit an increase in the number of Qualified Members of a residual element.
- 7) Qualified Members of Residual Elements may be transitioned and reintegrated into Iraqi society using the following processes:
- a) Entry of individuals into the Iraqi Armed Forces or other Iraqi security forces. In accordance with administrative instructions to be promulgated by the Ministry of Defence or the Ministry of Interior, as the case may be, and subject to the manning needs of the respective forces, individuals with the appropriate training and experience may enter into the Iraqi Armed Forces or other Iraqi security forces, to include security forces under ministries and agencies other than the Ministry of Interior. In accordance with administrative instructions to be promulgated by the employing ministry or agency, individuals whose service in a former Armed Force or Militia can be characterized and quantified shall be given credit for their time in service.

- b) Retirement. In accordance with administrative instructions to be promulgated by the Ministry of Defence, individuals whose service in a former Armed Force or Militia can be characterized and quantified, and who would qualify for retirement had they served in the Iraqi Armed Forces shall be provided the opportunity to retire with the same pension they would have received had they served in the Iraqi Armed Forces.
- c) Reintegration. In accordance with administrative instructions to be promulgated by Iraqi Ministries, agencies and the Transition and Reintegration Implementation Committee, individuals who do not qualify for retirement and who do not enter into the Iraqi Armed Forces or other Iraqi security forces shall be offered a reintegration program designed to help assimilate them into Iraqi civil society and economy. Elements that may be included in a reintegration program include skills screening, education benefits, job training and placement, and a limited stipend program. All relevant CPA offices and Ministries will cooperate in supporting established reintegration programs.

Such Qualified Members shall be deemed to be military veterans for purposes of determining eligibility for benefits, preferences and programs, and time in service if they transition into one of the Iraqi Security Forces.

- 8) In accordance with administrative instructions to be promulgated by the Ministry of Defence, widows and orphans of deceased members of Armed Forces and Militias that are subject to a Transition and Reintegration Plan shall be entitled to benefits based upon the service of the deceased member in accordance with any applicable statutes, regulations and rules determining such benefits for which current members of the Iraqi Armed Forces qualify; provided that the deceased member must have died on or before May 1, 2003, and such deceased member's service can be characterized and quantified.
- 9) In accordance with administrative instructions to be promulgated by the Ministry of Defence, disabled members of Armed Forces and Militias that are subject to a Transition and Reintegration Plan shall be entitled to benefits based upon their service in accordance with any applicable statutes, regulations and rules determining such benefits for which current members of the Iraqi Armed Forces qualify; provided that the member was disabled on or before May 1, 2003, and the member's service can be characterized and quantified.
- 10) Any individual receiving benefits or status under this Order shall forfeit the right to such benefits or status should they thereafter participate in an Illegal Armed Force or Militia.

- 11) In view of the recognition given to Qualified Members in deeming them to have been former soldiers, and consistent with Article 28(B) of the Law of Administration for the State of Iraq for the Transitional Period, in no event may a member of a Residual Element be a member of the National Assembly, Minister, Prime Minister, or member of the Presidency Council unless the individual has resigned his or her commission or rank, or retired from duty in the Residual Element, at least eighteen months prior to serving. Nothing herein shall affect limitations on political activity that will be applicable to Qualified Members who choose to join the Iraqi Armed Forces.
- 12) Residual Elements and their members shall enjoy no special privileges or immunities and shall be subject to all applicable Iraqi civil, administrative, and criminal laws.
- 13) Nothing in this Order shall be interpreted as exonerating individuals belonging to Armed Forces, Militias, or Residual Elements from responsibility for criminal acts or war crimes conducted individually or as part of such Armed Forces, Militias, or Residual Elements.

Section 5

Transition and Reintegration Implementation Committee

- 1) The Transition and Reintegration Implementation Committee (“Committee”) is hereby established to exercise oversight of the transition and reintegration process and to take such disciplinary or other action as may be necessary upon a determination that a Residual Element of an Armed Force or Militia no longer qualifies for an exception. The Committee shall be chaired by the Minister of Interior and shall report to the Ministerial Committee for National Security.
 - a) In addition to the Minister of Interior, the Committee shall include permanent representatives from the Ministry of Defence, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Labor and Social Affairs, Ministry of Education, Iraqi Veterans Agency (separate from the representative from the Ministry of Defence), and such other ministries, agencies, and governorates as the Ministerial Committee for National Security may determine.
 - b) The Chair may invite representatives from other ministries, agencies, and organizations, both governmental and non-governmental, to attend Committee meetings or participate in Committee activities as needed.
 - c) The Commander or other representative of the Multinational Force operating in Iraq pursuant to United Nations Security Council Resolution 1511, and any

relevant subsequent resolutions, may be invited to attend and participate in Committee meetings.

2) The functions of the Committee are to:

- a) Oversee the status of the various transition and reintegration programs;
- b) Revise individual Transition and Reintegration Plans when programs to absorb Residual Element members are not available as planned or for other reasons as agreed to by the Committee and the Residual Element of the Armed Force or Militia involved;
- c) Coordinate Iraqi government transition and reintegration policy and implementation with various governmental and non-governmental agencies and Ministries;
- d) Regularly inform the Ministerial Committee for National Security, and through it the Administrator or after the transfer of full governance authority the Prime Minister, of the status of transition and reintegration related programs and any issues that affect Iraqi security arising from these programs;
- e) Coordinate with the CPA, and subsequently consult with coalition diplomatic missions which are directly supporting Transition and Reintegration Plans, on programs and policy related to transition and reintegration;
- f) Coordinate with the Commander of the Multinational Force on Iraqi policy, decisions, and determinations that have security implications; and
- g) Perform other functions related to transition and reintegration as determined by the National Security Advisor.

3) The Committee will meet regularly with the leaders of the various Residual Elements, and the political parties that support them, as well as relevant governmental and non-governmental agencies and Ministries to coordinate transition and reintegration efforts and share information.

Section 6

Disciplinary Measures and Penalties

1) An Armed Force or Militia that does not qualify for an exception as set forth in Section 3, or a Residual Element that having previously qualified for an exception under Section 3.1(d) has ceased to so qualify by virtue of failing to continue to meet the criteria for such exception, shall be considered an Illegal Armed Force or

Militia. All weapons and other property, whether movable or immovable, held by an Illegal Armed Force or Militia, shall be subject to immediate confiscation through such measures as may be determined by the Transition and Reintegration Implementation Committee in coordination with the Ministry of Interior and the Commander of the Multinational Force. An Illegal Armed Force or Militia shall be subject to any actions as the Administrator or following the transfer of full governance authority the Transition and Reintegration Implementation Committee decides is necessary for the safety and security of the Iraqi people.

- 2) All members of an Illegal Armed Force or Militia shall be subject to criminal prosecution in accordance with the laws of Iraq. The Transition and Reintegration Implementation Committee shall notify the Ministries of Justice, Interior and Defense immediately upon a determination that a Residual Element has become an Illegal Armed Force or Militia. Paragraph 135 of the Iraqi Penal Code, Law No. 111 of 1969, as amended, is hereby modified to add the following aggravating circumstance:

“(5) The commission of an offense while acting as a member of an Illegal Armed Force or Militia or while a member of a Residual Element.”

- 3) A person who fills a leadership position or otherwise participates in an Illegal Armed Force or Militia in violation of the prohibition contained in Section 2, or who is a principal, accessory, or conspirator in such violation, shall be subject to judicial action in accordance with the Iraqi Penal Code, Law No. 111 of 1969, as amended, to include possible prosecution under paragraphs 194 and 195 of the Penal Code, and to such other civil and administrative actions as may be provided for in CPA, Orders, Regulations and Memoranda, and in Iraqi laws and regulations.
- 4) A member of an Illegal Armed Force or Militia may not hold political office at any level. An individual determined to have been a member of an Illegal Armed Force or Militia shall be barred from holding political office at any level for a period of three years from the date such individual ceased to be a member of an Illegal Armed Force or Militia.
- 5) The penalties specified herein, to include the amendment to the Penal Code, shall apply only to Illegal Armed Forces and Militias and to those who commit criminal offenses after the date this Order is published in the Official Gazette.
- 6) Any political party, and the leaders of any political party, that controls, supports or is associated with an Illegal Armed Force or Militia shall be subject to penalties in accordance with Iraqi electoral law.

Section 7
Existing Law

Any laws or regulations inconsistent with the provisions of this Order are hereby suspended to the extent they are inconsistent with the provisions of this Order. Nothing in this Order shall affect the rights or obligations of the Multinational Force under United Nations Security Council Resolution 1511, including the right to take measures in relation to Residual Elements or Illegal Armed Forces or Militias necessary to contribute to the maintenance of security and stability in Iraq.

Section 8
Administrative Instructions

Ministers and heads of agencies may issue administrative instructions, not inconsistent with Iraqi law or any CPA Order, Regulation, or Memorandum, as they deem necessary to carry out the duties for their respective ministries and agencies described in this Order.

Section 9
Entry into Force and Effective Dates

This Order shall enter into force on the date of signature.



L. Paul Bremer, Administrator
Coalition Provisional Authority