

In the name of God most Gracious most Merciful

Republic of Iraq
Federal supreme court
Ref. 102/federal/media /2013



Kurdish text

The Federal Supreme Court (F S C) has been convened on 27.11.2013 headed by Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-nagshabandi, Aboud Salih Al-temimi, Michael Shamshon Qas Georges and Hussein Abbas Abu AL-Temman who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (ain. mim. ha) his agent (mim. jim. ain.).

The Defendant: Chairman Independent High Electoral Commission
/being in this capacity his juristic (alif. ha. ain.).

The Claim:

The prosecutor claimed before the FSC in the case No. (102/federal/2013) that the FSC ruled that the third (women's quota account) of the system of distributing seats in the provincial councils, sub-districts and districts for violating articles (14, 16, 20 and 28 first) of the Constitution, as well as the provisions of the Fourth Amendment to the law of provinces, sub-districts and districts No. (114) of 2012 and since the legislator's intention is that the right of the elite is guaranteed and legally guaranteed by the choice of his representative, the defendant's resort to giving his client's votes to a woman who got a few votes, which wasted the principle of equal opportunity and gave

injustice to those who voted more than others, and since this adopted mechanism has no basis in the law and does not achieve the principles enshrined in the Constitution taking the quota of women must be taken from the lists that have received the most relative seats required, since the inclusion of the two-seat list in the women's quota before the proportion of the major lists is exhausted makes the percentage excessive in the number of them not entitled to reach (50%), which is not permissible compared to the large lists, which amount to (25%) of the votes, which threatens the interest stake of the voters and their freedom. Since the plaintiff from the list of the Dawa Islamic Party (Organization of the Interior) was affected by the decision of the Council of Commissioners No. (1) of the usual record (115) on 1/9/2013, which stipulated to configure paragraph (dal) of step three (calculating women's quota) (if the required seats for women are not completed according to the above, a seat will be allocated to women from the lists that have won two seats and the winning candidate will be replaced by the candidate) since this text did not come in line with the decision of the FSC to give the candidates their full right to preserve the aspirations of their voters who voted for them and suffered in order to win, what has been achieved is an acquired right that cannot be compromised to maintain the stability of the situation, and the text above from the Council of Commissioners is an implicit circumvention of the FSC's decision (36/federal/2013), which was expressly consistent with the Constitution. Therefore, his client requests after the necessary procedure to rule on the abolition of the above text and to invoke the spirit of the law and apply the principles of justice, as it is not permissible to change the percentage of his client, which is (50%) of the votes and holds more votes than the other contestants in the other lists and the woman substitutes for him and maintain the stability of the situation by keeping him enjoying the right guaranteed by the Constitution, law and election results and demanding the application of the decision issued by the FSC, by annulling paragraph (3) of the

decision and not only the amendment to paragraph (dal) of it, it was stated in decision (1) of the minute (115) on 1/9/2013 rather, it is fair to the winning lists from the one-seat lists and demands the equity of the two-seat list for the same reasons mentioned above and issuing your urgent decision to keep his client in his custody in order to preserve his right until the decision of the esteemed court and after the registration of the case with this court in accordance with paragraph (3rd) of article (1) of the bylaw of the FSC No. (1) of 2005. After the court completed the required procedures in accordance with paragraph (2nd) of article (2), of the bylaw of the court referred to above, a date was set for the argument and the plaintiff's attorney attended, (mim. sin. jim.), by the agency in the case file. The defendant's lawyer/being in this capacity also attended (alif. ha. ain.) under his official agency, a copy of which was attached in the case file and initiated the case in the case, and the plaintiff's attorney repeated the motion and requested a verdict under which the defendant was charged with all expenses and fees, as the defendant's agent repeated the statement in his answer draft on 22/10/2013 requesting that the case be rejected with the plaintiff's charge sought all expenses and the agents of the parties repeated their previous statements and requests and therefore where there is nothing left to say, the end of argument has been made clearly and public.

The Decision:

After scrutiny and deliberation by the FSC found that the plaintiff's agent requested in his petition to the FSC ruling to cancel paragraph (dal) of the Council of Commissioners decision No. (1) of the Regular Minutes (115) on 1/9/2013 of the third step (calculating the quota of women) concerning the distribution of seats between the winners of the candidates for the Provincial Council the FSC's competencies are defined in article (93) of the Constitution of the Republic of Iraq of 2005 and article (4) of the FSC Law No. (30) of 2005. None of them is the prosecutor's request to consider appeals

against the distribution of seats among the winners, as this is the prerogative of the Independent High Commission for Elections and its decision is subject to appeal to the cassation body formed in the Federal Court of Cassation. Therefore, the plaintiff's case is outside the jurisdiction of the court, and therefore it is obligatory to refuse from the point of view of non-jurisdiction, so the court decided to dismiss the plaintiff's claim from the jurisdiction, with all the expenses of the lawsuit and the fees of the lawyer to the defendant's agent, the jurist (alif. ha. ain.) amount (100,000) one hundred thousand Iraqi dinar. The decision was made unanimous according to the article (94) of the Constitution and made clear in 27/11/2013.