

Republic of Iraq
Federal Supreme Court
Ref 10/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 4/3/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, Dyar Mohammed Ali, and Monther Ibrahim Hussain who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Abdulkazim Karim Jalil Al-Kinani.

The Defendant: Head of The Independent High Electoral Commission/
being in this capacity-His agent the legal adviser Ahmed
Hasan Abd.

The Claim:

The plaintiff claimed in his petition that the Board of Commissioners issued instructions for counting the votes of the excluded candidates according to its decision No. (21) of the extraordinary record (65) on 13/12/2023, which includes (the paper bearing a reference to the list with a reference to an excluded candidate is counted as a valid paper and the vote is calculated for the list) and the plaintiff took the initiative to challenge it before this court in accordance with Article (93) of the Constitution, because it is not based on an explicit legal text that may be adopted as a vote for the list for which it is nominated, and for not distinguishing between voting for the list and voting for the candidate, in addition to that it is considered a reward for the list for the poor selection of its candidates, which violates the rules of electoral integrity and the fair competition that it calls for Election Law, so the plaintiff asked this court to rule that the contested instructions

Zainab

Republic of Iraq
Federal Supreme Court
Ref 10/ federal/2024



Kurdish text

contained in the Board of Commissioners Resolution No. (21) of the extraordinary record No. (65) on 13/12/2023 are invalid. After registering the case with this court in the number(10/federal/2024) and the collection of the legal fee for it and the notification of the defendant of its petition and documents in accordance with Article (21 / first and second) of the internal regulations of the Federal Supreme Court No. (1) of 2022, his agent replied with the response regulation dated 25/1/2024 Summary: The Independent High Electoral Commission Law No. (31) of 2019 the legal path to appeal the decisions issued by the Board of Commissioners has been drawn, and the competent authority to consider objections to the decisions issued by the Board of Commissioners under Articles (18 and 19) thereof is the Judicial Authority for Elections, the decision of the aforementioned Board of Commissioners was previously appealed, and the decision of the Judicial Authority for Elections No. (67/Judicial Authority for Elections/2023) was issued to overturn the decision of the Board of Commissioners, so the judgment requested to reject the lawsuit and the plaintiff to bear the expenses. After completing the procedures required by the Court's Rules of Procedure, a date has been set for the pleading in accordance with Article (21/3rd) thereof. In which the court was formed, the plaintiff did not appear despite the notification in accordance with the law, and the defendant's agent attended and began to conduct the public presence pleading, the court noted what was stated in the plaintiff's lawsuit, his requests, and his supports, and the defenses of the defendant's agent, after the court completed its scrutinies, the end of the argument has been made clear and the court issued the following decision:

Zainab

Republic of Iraq
Federal Supreme Court
Ref 10/ federal/2024



Kurdish text

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff Abdul Kazem Karim Jalil Al-Kinani asked this court to rule on the invalidity and cancellation of the instructions for calculating the votes of the excluded candidates contained in the decision of the Board of Commissioners No. (21) of the extraordinary minutes (65) on 13/12/2023, which includes (the paper bearing a reference to the list is counted with a reference to an excluded candidate, a valid paper and the vote is counted for the list) and that he is challenging these instructions and requesting the annulment of the aforementioned decision, and ruling that it is invalid, due to the absence of the text that helps the Commission It is not based on a law, as well as the fact that these instructions do not distinguish between voting for the list and voting for the candidate, He also claimed that the approval of these instructions is a reward for the list for the poor selection of its candidates, and for informing the court of the list of the defendant's agent dated 25/1/2024, who requested reject the lawsuit for the reasons stated therein in detail, and for all of the above, and whereas the competences of this court are determined by Articles (52 and 93) of the Constitution of the Republic of Iraq, and Article (4) of the Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and not among those competencies the requests of the plaintiff in the lawsuit petition. Accordingly, the plaintiff's claim must be rejected for lack of jurisdiction, and for the foregoing, the Federal Supreme Court decided to rule as follows:

Zainab

Republic of Iraq
Federal Supreme Court
Ref 10/ federal/2024



Kurdish text

First: Reject the lawsuit of the plaintiff Abdul Kazem Karim Jalil Al-Kinani for lack of jurisdiction.

Second: The plaintiff shall burden the fees, expenses and advocacy fees of the defendant's agent, Chairman of the Board of Commissioners in the Independent High Electoral Commission, being in this capacity, the legal adviser Ahmed Hassan Abed, an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, final and binding for all authorities according to the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (4 and 5/2nd) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021. The decision has been made clear on 22 / Shaaban / 1445 A.H. corresponding to 4/3/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

Zainab