

Republic of Iraq
Federal Supreme Court
Ref 136/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 22/7/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalaf Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Jassim Jazaa Jafer who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Azad Abdul Hamid Ahmed Duski.

The Defendants:

1. The Prime Minister / being in this capacity – His agent the legal adviser Qasim Suhaib Shakur.
2. Chairman of the Board of Commissioners in the Independent High Electoral Commission / being in this capacity – His agent the legal adviser Ahmed Hassan Abd.
3. Minister of Planning / being in this capacity – His agent the human rights employee Maha Sabih Sadiq.

The Claim:

The plaintiff claimed in his petition that the system of registering and approving candidate lists for the Kurdistan Parliament elections Iraq No. (7) of 2024 - issued in accordance with the Independent High Electoral Commission Law No. (31) of 2019, which gave it the authority to issue it, and the Federal Supreme Court's decision No. (83 and its units 131 and 185/federal/2023) - was unfair to the rights of the region in Article (2) thereof, which stipulated ((First: The Kurdistan Region – Iraq is divided into four electoral districts: (Erbil, Dohuk, Sulaymaniyah, Halabja), Second: The Kurdistan Regional Parliament consists of (100) seats distributed over the following electoral districts: Erbil Governorate / 34 seats, Sulaymaniyah Governorate / 38 seats, Dohuk Governorate /

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25 seats, Halabja Governorate / 3 seats)), whereas Article (110/9th) of the Constitution of the Republic of Iraq for the year 2005 it stressed the importance of conducting the census and the general census of the population, and the Federal Council of Representatives legislated the law of the Statistics Authority and Geographic Information Systems No. (32) of 2023, as Article (1/6th) thereof (Statistical Activities: Group (operations aimed at providing statistics in the field of agricultural, industrial, economic, social, population, environmental, research, financial, urban, trade, communications and information technology) successive Iraqi governments have completed about 8 censuses since the establishment of the Iraqi state until 2003, but all attempts after 2003, it failed for various reasons, including security, logistics, most notably political, and the lack of objective criteria for increasing or decreasing electoral seats in the region due to the lack of a census since 2003, therefore, the plaintiff asked this court to rule on the unconstitutionality of Article (2) of the system of registering and approving candidate lists for the Kurdistan Parliament elections Iraq No. (7) of 2024, and to reverse its decision No. (83 and its units 131 and 185/federal/2023) and after registering the case with this court No. (136/Federal/2024), collecting the legal fee for it, and informing the defendants of its petition and documents in accordance with Article (21/1st and 2nd) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, the first defendant's agent replied the reply dated 26/5/2024, he requested to reject of the lawsuit because the litigation was not directed towards his client, and the second defendant's agent responded with the reply regulation dated 3/6/2024 and requested the reject of the lawsuit because it had previously been decided by the decision of the Federal Supreme Court No. (126/Federal/2024) dated 21/5/2024 including rejecting the lawsuit filed in this matter for the issuance of Decision of the Judicial

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Authority for Elections No. (355/Judicial Authority for Elections/2024) dated 20/5/2024, the third defendant's agent replied to the reply dated 22/7/2024 and requested to reject of the lawsuit because the litigation is not directed against her client, and after completing the procedures required by the court's internal regulations, an appointment was set to hear the case without pleading based on Article (21/3rd) thereof, in which the court was formed and the case was considered the court scrutinized the plaintiff's requests and supports and the defenses of the defendants' agents and after completing its scrutinies, the end of the minutes has been made clear and the court issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff's claim is summarized in demanding a ruling on the constitutionality of Article (2) of the system of registering and approving candidate lists for the elections of the Kurdistan Regional Parliament - Iraq No. (7) of 2024, and also requested the reversal of the Federal Supreme Court from its decision No. (83 and its units 131 and 185/federal/2023) based on the provisions of Article (45) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022 and Articles (49/1st, 16, 20 and 125) of the Constitution of the Republic of Iraq for the year 2005, through the court's scrutinized of the petition and its attachments, the court finds that the plaintiff's claim must be rejected against the first defendant, the Prime Minister and the third Minister of Planning / being in their capacity because the litigation is not directed because they are not related to the issuance of the system for registering lists of candidates - the subject of the challenge, as for the plaintiff's lawsuit against the second defendant, the Chairman of the Board of

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Commissioners in the Independent High Electoral Commission / being in this capacity, his litigation is directed, and the interest of the plaintiff in filing the lawsuit is achieved, but his claim must be rejected, the subject matter has already been decided by virtue of the decision of this court No. (126/Federal/2024) on 21/5/2024, which includes that the judicial authority formed in the Supreme Judicial Council and according to its decision No. (355/Judicial Commission for Elections/2024) on 20/5/2024 has solved the problem related to minority quota in the Kurdistan Region Iraq, and that the decisions of the Judicial Authority for Elections regarding the elections are final and may not be appealed under Article (19/3rd) of the Independent High Electoral Commission Law No. (31) of 2019, accordingly, and in view of the foregoing, the Federal Supreme Court has decided the following:

First: Reject the plaintiff's lawsuit (Azad Abdul Hamid Ahmed), for not directing the litigation against the defendants the first is the Prime Minister and the third is the Minister of Planning / being in their capacity.

Second: Reject the plaintiff's lawsuit (Azad Abdul Hamid Ahmed) against the second defendant, Chairman of the Board of Commissioners in the Independent High Electoral Commission / being in this capacity, its subject matter would have been previously decided by virtue of the ruling decision issued by this court No. (126/Federal/2024) on 21/5/2024.

Third: Charging the plaintiff with expenses, fees and attorneyship fees of the defendants' agents / being in their capacity in an amount of one hundred thousand dinars distributed in accordance with the law.

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The decision has been issued unanimously, final and binding on all authorities based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq of 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 and it has been edited in the session dated 15/Muharram/1446 A.H. corresponding to 22/7/2024 AD.

Judge
Jasem Mohammed Abood
President of the Federal Supreme Court

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