

Republic of Iraq
Federal Supreme Court
Ref 138/ 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 Plaintiffs:

1. Anu Jawhar Abdul Masih
- Chairman of the Hammurabi Coalition /
Being in this capacity.
2. Jinan Jabbar Pouya
- President of the Chaldean National Council /
Being in this capacity.
3. Rubinh Oimlak Aziz
- Vice President of the Shalama Movement for
Christian Affairs / being in this capacity.

Their agent
the adviser barrister

Iyad Ismail
Mohammed

Defendant: Chairman of the Board of Commissioners of the Independent High Electoral Commission / being in this capacity - His agent the Legal adviser Ahmed Hassan Abed.

The Claim:

The plaintiffs claimed that the defendant/ being in this capacity issued the Candidate Lists Registration and Approval System for the Kurdistan Parliament Elections Iraq No. 7 of 2024) as his constituency is the authority charged with supervising elections for the sixth session of the regional parliament according to court decision No. (83 and its uniforms 131 and 185/federal/2023) article 2 of this system stipulates that the 100 seats of parliament shall be divided into four electoral districts as

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follows: (Erbil 34 seats, Sulaymaniyah 38 seats, Dohuk 25 seats, and Halabja 3 seats), and because this article violates the aforementioned court decision that obligated the Independent High Electoral Commission to distribute seats among the electoral districts in a manner that ensures justice and equality, as well as its violation of the Iraqi Constitution in force in Articles (14, 16 and 49/1st) thereof, in addition to violating Article (125), which stressed the guarantee of administrative, political, cultural and educational rights of different nationalities, so the plaintiffs took the initiative to challenge them before this court for reasons contained in the petition, including neglecting the representation of components of all ethnic, religious and national forms, including the (Christian component) in this division of electoral seats, Which is based in the governorates of Dohuk and Erbil and may be difficult for him to obtain the necessary seats to represent him due to the large price of the electoral seat and in the absence of a quota, so they asked for a ruling on the unconstitutionality of this article, and to instruct the allocation of the quota for the Chaldean, Assyrian and Syriac Christian component with five seats and a seat for Armenian Christians to compete for the candidates of the component, and to consider the region as one electoral district for them, and charging the defendant addition to his job with fees and expenses. After registering the case with this court No. (138/Federal/2024), and collecting the legal fee for it, and notifying the defendant with its petition and documents in accordance with Article (21/1st and 2nd) of the Court's Rules of Procedure No. (1) of 2022, his agent responded with the reply regulation dated 3/6/2024 according to which he requested to reject of the lawsuit for the reasons stated therein, some of them were previously adjudicated by the decision of the Federal Supreme Court No. (126/Federal/2024) on 21/5/2024, which includes the reject of the lawsuit filed in this matter

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due to the issuance of the decision of the Judicial Authority for Elections No. (355 / Judicial Authority for Elections/2024) dated 20/5/2024, after completing the procedures required by the Rules of Procedure of the Court a date was set for the consideration of the lawsuit without pleading based on Article (21/3rd) thereof, in which the court was formed and the case began to be heard, the court scrutinized the plaintiffs' requests, their substantiations and the defenses of the defendant's agent, 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 plaintiffs (Anu Jawhar Abdul Masih / head of the Hammurabi coalition, Jinan Jabbar Pouya / head of the Chaldean National Council Party, and Rubinh Oimlak Aziz / vice president of the Shalama Movement for Christian Affairs / in addition to their jobs) filed this lawsuit against the Chairman of the Board of Commissioners in the Independent High Electoral Commission in addition to his job, and requested a ruling on the unconstitutionality of Article (2) of the said system, which states: First: The Kurdistan Region divides Iraq into four electoral regions (Erbil, Dohuk, Sulaymaniyah and 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 (25) seats, Halabja Governorate (3) seats)), and also requested to instruct the allocation of the quota of the Chaldean, Assyrian and Syriac Christian component with five seats and one seat for Armenian Christians to compete for the candidates of the component and to consider the region

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as one electoral district for them for the reasons mentioned in Petition, upon closer consideration by this court, it was found that this court had previously issued its decision No. (126/Federal/2024) on 21/5/2024, which included the reject of the plaintiff's lawsuit to challenging the constitutionality of Article (2) of the system of registering and approving lists of candidates for the elections of the Kurdistan Regional Parliament Iraq No. (7) of 2024, which is the same article whose unconstitutionality is challenged in this lawsuit, and since the decisions issued by this court are absolutely authoritative over all persons and authorities and its argument is not limited to the parties to the lawsuit, so the plaintiffs' lawsuit must be rejected because it has already been adjudicated for all of the above, the Federal Supreme Court decided the following:

First: Rejecting the plaintiffs' lawsuit (Anu Jawhar Abdul Masih / head of the Hammurabi coalition, Jinan Jabbar Pouya / head of the Chaldean National Council Party, and Rubinh Oimlak Aziz / vice president of the Shalama Movement for Christian Affairs / being in their capacity), the subject matter has already been decided according to the judgment decision issued by this court No. (126/Federal/2024) on 21/5/2024.

Second: Charging the plaintiffs with the expenses, fees and advocacy fees of the defendant's agent in addition to his job as legal advisor Ahmed Hassan Abed, an amount of (100,000) one hundred thousand dinars distributed in accordance with the law.

The decision has been issued unanimously, final and binding on the basis of 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) for the year 2021, and it has been made clear in the session dated 15 / Muharram / 1446 A.H. corresponding to 22/7/2024 AD.

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Judge
Jassim Mohammed Abood
President of the Federal Supreme Court

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