

Republic of Iraq
Federal Supreme Court
Ref 140/ 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. Azad Ikram Bahram –

Chairman of the Miliabt Turkmen List /
Being in this capacity.

2. Mohammed Saadaldin Anwar –

Chairman of the Turkmen Development Party /
Being in this capacity.

Their agent
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 through their agent that the defendant, in addition to his job, issued the Candidate Lists Registration System and its ratification for the elections of the Kurdistan Parliament Iraq No. 7 of 2024) considering that his constituency is the authority charged with supervising the elections of the sixth session of the Regional Parliament according to the decision of the Federal Supreme Court No. (83 and its units 131 and 185 / Federal/2023), and Article (2) of this system stipulated the division of the seats of the (100) Parliament on four electoral districts as follows: (Erbil 34 seats, Sulaymaniyah 38 seats, Dohuk 25 seats, and Halabcha 3 seats), and for the violation of this

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article of the aforementioned court decision that obligated the Independent High Electoral Commission to distribute the seats among the electoral districts in a manner that guarantees justice and equality, as well as its violation of the Iraqi Constitution in force, therefore, the plaintiffs took the initiative to challenge it before this court for the reasons mentioned in the petition, including neglecting the representation of components of all ethnic, religious and national forms, including (Turkmen nationalism - to which the plaintiffs belong) in this division of electoral seats, so they requested a ruling that this article is unconstitutional, and to order the allocation of the quota for the Turkmen component with five seats competed by the candidates of the component, and to consider the region as one electoral district for them, and charging the defendant in addition to his job the fees and expenses. After registering the case with this court No. (140/Federal/2024), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/I and II) of the Court's Rules of Procedure No. (1) of 2022 his agent replied with the reply list dated 3/6/2024 according to which the lawsuit was rejected for the reasons stated therein, including the previous 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 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 Court's Rules of Procedure, a date shall be set for the consideration of the case without pleading in accordance with Article (21/3rd) thereof in which the court was formed and the case began to be heard, the court scrutinized the plaintiffs' requests and their supports and the defenses of the defendant's agent,

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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' claim is summarized in demanding a judgment the unconstitutionality of Article (2) of the system of registering and approving candidate lists for the Kurdistan Regional Parliament elections Iraq No. (7) for the year 2024, and the directive to allocate the quota of the Turkmen component with five seats for which the candidates of the component compete, and to consider the region as one electoral district for them, and the court finds through scrutiny and review of the defenses and requests of the parties that the litigation of the first plaintiff Azad Ikram Bahram is not directed, because Article (19) of the Political Parties Law No. (36) of 2015 stipulates (First: The head of the party and in his capacity and according to the rules of procedure is the one who represents him in all matters related to his affairs before the judiciary and other authorities) while paragraph (second) of the same article stipulates (The head of the party and in his capacity may delegate one or more party leaders in representing him in accordance with his rules of procedure),so his claim must be rejected ,since he is not the head of a political party and does not hold the status of president, and he has not been delegated to represent the party before the judiciary as for the second plaintiff, Mohammed Saad aldin Anwar, his lawsuit is also must be rejected, as it has already been decided by the decision of this court No. (126/Federal/2024) on 21/5/2024, which includes: ((The plaintiff's lawsuit must be rejected since the unconstitutionality of the article - subject of the challenge - was challenged on the grounds that it violated the provisions of the

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Constitution due to its failure to allocate seats for minority quotas within the seats allocated to each electoral district in the Kurdistan Region, however, this court's scrutiny of the decision issued by the Judicial Commission for Elections No. (355 / Judicial Commission for Elections/2024) on 20/5/2024 is clear that it solved the problem related to the minority quota in the Kurdistan Region, and obligated the Independent High Electoral Commission to organize this in approved procedures that include its implementation in a fair and impartial manner)), whereas, The Judicial Authority for Elections is formed in the Supreme Judicial Council in accordance with the provisions of Article (19/1st) of the Commission Law No. (31) of 2019, and the decisions of the Board of Commissioners may only be appealed before the Judicial Authority for Elections in matters related to elections exclusively, and since the decisions of the Judicial Authority for Elections are final and not subject to appeal based on the provisions of Article (19/3rd) of the same article, so the decision of the Judicial Authority for Elections according to the detail contained therein is binding on the Independent High Electoral Commission and it must take the necessary measures to address the quota of minorities within the governorates of the Kurdistan Region - Iraq in accordance with the system issued by it and article 2 thereof - subject to appeal, therefore, and for the foregoing, the Federal Supreme Court decided the following:

First: Rejecting the lawsuit of the first plaintiff (Azad Ikram Bahram - head of the Miliat Turkmen list / being in this capacity)for lack of adversarial orientation.

Second: Rejecting the lawsuit of the second plaintiff (Mohamed Saad aldin Anwar - Chairman of the Turkmen Development Party / being in this capacity), previously adjudicated on its subject matter according to

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the judgment decision issued by this court No. (126/Federal/2024) on 21/5/2024.

Third: Charging the plaintiffs with fees, expenses and advocacy fees for the defendant's agent / being in this capacity an amount of one hundred thousand dinars distributed in accordance with the law.

The decision has been issued unanimously, final and binding on all authorities in accordance with 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 made clear in the session dated 15/Muharram/1446 A.H. corresponding to 22/7/2024 AD.

Judge
Jassim Mohammed Abood
President of the Federal Supreme Court

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