

Republic of Iraq
Federal Supreme Court
Ref 143/ 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: Barwa Omar Rasul, head of the Erbil branch of the Barsh organization / being in this capacity.

The 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 plaintiff claimed that the defendant in addition to his job issued (the system of registration and approval of candidate lists for the elections Kurdistan Parliament Iraq No. 7 of 2024) considering that its constituency is the authority charged with supervising the elections of the sixth session of the regional parliament according to the court's decision in the number (83 and its units 131 and 185 / federal / 2023), and Article (2) of this system stipulated the division of the 100 seats of the parliament into four electoral districts as follows: (Erbil 34 seats, Sulaymaniyah 38 seats, Dohuk 25 seats, Halabja 3 seats), and for violating this article the aforementioned court decision that obligated the Independent High Electoral Commission to distribute seats to electoral districts in a manner that ensures justice and equality, as well as

Zainab

Republic of Iraq
Federal Supreme Court
Ref 143/ federal/2024



Kurdish text

violating the Iraqi Constitution in force, therefore, the plaintiff took the initiative to challenge it before this court for the reasons stated in his petition, including neglecting the representation of components of all ethnic, religious and national forms, including (Turkmen nationalism) in this division of electoral seats, therefore, he asked for a ruling on the unconstitutionality of this article, and to order the allocation of the quota for the Turkmen component with five seats to be contested 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 fees and expenses. After registering the case with this court No. (143/Federal/2024), and collecting the legal fee for it, and informing the defendant of 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, including previously decided by a decision Federal Supreme Court No. (126/Federal/2024) on 21/5/2024 including the rejecting of the lawsuit filed in this matter for 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 internal regulations, a date was set for the consideration of the case 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 plaintiff's requests, his grounds 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:

Zainab

Republic of Iraq
Federal Supreme Court
Ref 143/ federal/2024



Kurdish text

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff's lawsuit/ being in this capacity focused on the request for judgment the unconstitutionality of the text of Article (2) of the system of registering and approving candidate lists for the Kurdistan Regional Parliament elections - Iraq No. (7) of 2024, and instructing the Independent High Electoral Commission to allocate the quota of the Turkmen component with five seats for which the candidates of the component compete, and to consider the Kurdistan region as one electoral district for them, then charging the defendant the fees and expenses. Upon reference to the rules of procedure of the said organization, it was found that the organization possesses the legal personality as stipulated in article (1) of its bylaws, and that the representative is its president as stipulated in article (4/2nd/6), of its statute, which is the one who has the right to file a lawsuit in the name of the organization, and the officials of the branches of the organization do not have a legal personality, therefore, they do not have the right to file a lawsuit in the name of the organization and its branches in their professional capacity, and according to the foregoing, the litigation of the plaintiff in the case is not directed, and if the litigation in the lawsuit is not directed, the court shall rule on its own motion to reject it without entering into its basis in accordance with the provisions of article (80/1) of the Civil Procedure Law No. (83) of 1969, as amended, based on the above, the Federal Supreme Court decided to reject the plaintiff's lawsuit (Barwa Omar Rasul, official of the Erbil branch, to the Barsh Organization / being in this capacity) and charging him all fees and expenses, including the agent's fees of the defendant's agent/ being in this capacity, the legal adviser Ahmed Hassan Abed, an amount of one hundred thousand dinars distributed in accordance with the law, and the

Zainab

Republic of Iraq
Federal Supreme Court
Ref 143/ federal/2024



Kurdish text

decision has been issued unanimously, final and binding in accordance with the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq of 2005, and (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

Zainab