

Republic of Iraq  
Federal Supreme Court  
Ref 160/ federal/2024



Kurdish text

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The Federal Supreme Court (F S C) has been convened on 1/7/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Muthanna Amin Nader / Member of the Council of Representatives.

The Defendants: 1. Speaker of the Council of Representatives / being in this capacity – His two agents the official jurists Saman Mohsen Ibrahim and Aseel Samir Rahman.

2. Prime Minister / being in this capacity - His agent the legal adviser Qasim Suhaib Shakour.

**The Claim:**

The plaintiff claimed that the Regional Parliament issued its Resolution No. (11) dated 23/9/1999 to transform the city of Halabja into a governorate, and since Article (141) of the Constitution requires the recognition of all decisions issued by the legislative and executive authority in the Kurdistan Region before the adoption and voting of the Constitution, and whereas the Region exercised its powers to transform the city of Halabja into a governorate based on the decision issued of the Parliament, considering that the Constitution has been approved in Article (141) and there is no violation or conflict with the provisions of the Constitution, and the Federal Government has supported this issue by sending the law establishing the province of Halabja to the Council of Representatives in late 2013, then it was sent again in 2024, and it was

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read twice, but the vote on it was disrupted for subjective reasons, and the Council of Representatives it has previously voted in the budget law for the year 2015 and beyond to name the city a province and allocated an amount for it in the aforementioned law, which was published in the Iraqi Gazette and has been addressed by several federal ministries as a province in addition to the court's decision designate a constituency for Halabcha as a governorate, as a resident of the city and a representative in the Council of Representatives, the plaintiff was asked to order the defendants, in addition to their jobs, to work in accordance with the content and requirements of the constitutional article and to transfer the Halabja district to governorate No. (19) in Iraq and to give it the financial and administrative entitlement, and to charge them expenses and fees. after registering the lawsuit with this court No. (160/Federal/2024), collecting the legal fee for it, and informing the defendants of its petition and documents in accordance with Article (21/1<sup>st</sup> and 2<sup>nd</sup>) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, the first defendant's agents responded with the reply statement dated 11/6/2024, according to which he requested to reject of the lawsuit, as there was no interest for the plaintiff to file it the court has no jurisdiction over it the second defendant's agent responded by the reply dated 26/6/2024 and requested to reject of the suit for the same defenses contained in the first defendant's agents' list he added that the Council of Ministers issued in its session dated 13/3/2023 its decision No. (23131) for the year 2023, which includes the approval of the draft law on the establishment of Halabja Governorate in the Republic of Iraq and referring it to the Council of Representatives to complete its legislation based on the provisions of Articles (61/1<sup>st</sup> and 80/2<sup>nd</sup>) of the Constitution, and accordingly, the subject matter of the lawsuit is now before the Council of Representatives, and therefore the litigation is not

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realized, and a request to reject the plaintiff's lawsuit and charge him fees, expenses and attorneyship fees, and after completing the procedures required by the court's internal system, set a date for considering the lawsuit without pleading according to Article (21/3<sup>rd</sup>) thereof, in which the court was formed and the case was considered, the court scrutinized the plaintiff's requests and his 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 (Muthanna Amin Nader/ Member of the Council of Representatives) requested a ruling by obliging the defendants to work with the content of the constitutional article and the ruling to transfer the district of Halabja to Governorate No. (19) in Iraq and give it the financial and administrative entitlement, and this court finds that the plaintiff's lawsuit must be answered, for lack of jurisdiction because the powers of this court and its competencies are determined by articles (52 and 93) of the Constitution of the Republic of Iraq of 2005, and (4) of the Federal Supreme Court Law No. (30) of 2005, as amended by law No. (25) of 2021, and some other special laws, and none of those competencies and powers gives the court jurisdiction to respond to the plaintiff's lawsuit and rule according to his requests the Court's jurisdiction is held in accordance with the provisions of Article (93/I) of the Constitution, and article (4/1<sup>st</sup>) of its law No. (30) of 2005, as amended, to monitor the constitutionality of the laws and regulations in force in order to decide whether or not they are constitutionality when challenged before this court and shall not exceed the obligation to apply

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them, the same applies to the jurisdiction of this court as set forth in article 93/3<sup>rd</sup> of the Constitution and article (4/3<sup>rd</sup>) of the aforementioned Court Law, as this jurisdiction relates to adjudicating cases arising from the application of federal laws and does not go to oblige them to be applied without adjudicating the cases arising from them, and since the plaintiff requested a judgment to oblige the defendant to work with the constitutional article and the ruling to transfer the Halabja district to the governorate (19) in Iraq and give it the financial and administrative entitlement, which makes it impossible to respond to the request and rule accordingly for lack of jurisdiction, so the consideration of the subject matter of the plaintiff's lawsuit is outside the competences of this court specified in the aforementioned articles, and for the foregoing, the Federal Supreme Court decided Judgment rejecting the plaintiff's lawsuit (Muthana Amin Nader / Member of the Council of Representatives), for lack of jurisdiction and charging him the judicial fees and expenses including the agent fees of the first and second defendants' agents, being in this capacity, an amount of one hundred thousand dinars distributed in accordance with the law, and the decision has been issued unanimously, final and binding based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and (4 and 5/2<sup>nd</sup>) 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 24/Dhu al-Hijjah/1445 A.H. corresponding to 1/7/2024 AD.

**Judge**  
**Jassim Mohammed Abood**  
**President of the Federal Supreme Court**

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