

Republic of Iraq
Federal Supreme Court
Ref. 31 / federal /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 21/2/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul Rahman Suleiman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Qais Mohammed Khorsheed – his agent, the barrister Hasan Abdul Razzaq Hasan.

The Defendants: 1. The Prime Minister/ being in this capacity – his agent the legal counselor Qassim Suhaib Shakour.
2. The Secretary-General of the Cabinet/ being in this capacity – his agent the legal counselor Hayder Ali Jaber.

The Claim

The plaintiff's agent claimed in the lawsuit petition that the Iraqi Council of Representatives had previously issued the Independent High Electoral Commission Law No. (31) of 2019 in force under the provisions of Article (25/3rd) thereof, which stipulated that ((the current general managers (confirmed and assigned) with their grade and financial allocation (general manager) outside the staff of the Commission shall be transferred to state institutions and those who wish to retire as an exception to the provisions of the Unified Retirement Law No. (9) of 2014 as amended)), however, the defendants' chambers did not abide by the said provision, which expressly indicates that the plaintiff is considered a director-general in his own right, the failure to complete the necessary procedures for the confirmation of the directors general

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was replaced by the legislation represented by the aforementioned Commission Law and the text of Article (25) thereof, but the defendants' departments interpreted the law differently, which resulted in the plaintiff being considered acting director general and not incumbently, so the plaintiff's agent asked the court to rule obliging the defendants, in addition to their functions, to abide by the aforementioned Commission Law and the text of Article (25) thereof, and to rule that the letter issued by the General Secretariat of the Council of Ministers No. (S/2/5/42/1123) in 19/4/2021 and its nullity, and charging the defendants fees, expenses and advocacy fees. After registering the case with this court No. (31/Federal/2024) and collecting the legal fee for it, and informing the defendants of its petition and documents in accordance with Article (21/I and II) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, their agents responded with the reply regulation dated 11/2/2024, requesting to dismiss the lawsuit and charge the plaintiff the expenses, fees and advocacay fees for the reasons stated therein. After completing the procedures required by the court's rules of procedure, a date was set for the hearing of the case without pleading, during which the court was formed and the case began to be heard, the court examined the plaintiff's requests, his grounds and the defenses of the defendants' agents, and after completing its audits, I understand the conclusion of the minutes and issued the following judgment decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff had challenged the letter of the General Secretariat of the Council of Ministers No. (Qaf/2/5/42/1123) issued on 19/4/2021, entitled to the Property Claims Authority / Office of the

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Chairman of the Authority, which referred to the Diwani Order No. (2) issued by the letter of the General Secretariat of the Council of Ministers No. (S/2/5/21281) on 22/11/2020, and this court finds that the plaintiff's lawsuit must be dismissed because its subject matter has already been decided based on the decision issued by this court No. (278 and its units / Federal/2023) on 29/1/2024, stating that Article (25/3rd) included with its provisions the proven directors general and their assignees, and because there is nothing that violates the validity of the letter of the General Secretariat of the Council of Ministers No. (S/2/5/42/112342) dated 19/4/2021, the lawsuit was dismissed, and since the decisions of this court are final and binding on all authorities and persons based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005, Article (5/2nd) of the Federal Supreme Court Law No. (30) of 2005, as amended, and Article (36) of the Court's Rules of Procedure No. (1) of 2022, and where Evidence may not be accepted that contradicts the authority of conclusive judgments based on the provisions of Articles 105 and 106 of the Evidence Law No. 107 of 1979, as amended. Accordingly, and in view of the foregoing, the Federal Supreme Court decided as follows:

First: Dismissal of the plaintiff Qais Muhammad Khurshid lawsuit for the previous adjudication of its merits based on the judgment issued by this court No. (278 and its units / federal / 2023) on 29/1/2024.

Second: The plaintiff shall charge the fees, expenses and attorney fees of the defendants' attorneys, being in their capacity, the legal advisers Qasim Suhaib Shakur and Haider Ali Jaber in an amount of one hundred thousand dinars distributed in accordance with the law.

The decision has been issued unanimously, final and binding for all authorities according to the provisions of the articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5/2nd)

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of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited in the session dated 10/Shaaban/1445 Hijri coinciding 21/February/2024 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court