

Republic of Iraq
Federal Supreme Court
Ref 65/ federal /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 13/3/2024 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, , and Dyar Mohammed Ali, and Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

Applicant of Interpretation Request: Rakan Saeed Ali / Governor of Kirkuk / being in this capacity.

Subject of the request: Interpretation of the legal meaning of the first session of the provincial council contained in Article (19/2) of Law No. (4) of 2023 Third Amendment Law to the Law on Elections of the Council of Representatives, Governorate Councils and Districts decree No. (12) of 2018.

Abstract of the Request:

The Federal Supreme Court received the request submitted by Rakan Saeed Ali, Governor of Kirkuk, according to the letter of the province of Kirkuk, the Governor's Office No. (573) on 18/2/2024 entitled Inquiry request, which includes ((Given the approval of the Independent High Electoral Commission on the results of the provincial council elections for the year 2023 and the fact that the law obliges the winning member to repeat the legal oath within a period of 30 days from the date of the first session, kindly requesting clarification of the legal meaning of the first session of the provincial council contained in the law, is it the session specified on the date of the governor's invitation, which did not take place due to the lack of quorum or the session in

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which the quorum is achieved so that we can know the specified period for repeating the oath for those who have not repeated the oath yet according to Article (19/2) of Law No. 4 of 2023, the third amendment to the Council of Representatives, Provincial Councils and Districts Elections Law No. 12 of 2018 in force)), and after registering the application with this court, reviewing what was stated therein and completing the scrutinies, the court issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that the request was submitted for the purpose of explaining and clarifying the legal meaning ((of the first session of the provincial council contained in the law, whether it was the session specified on the date of the governor's invitation that did not take place. Due to the lack of quorum or the session in which the quorum is achieved, so that the Governor of Kirkuk / being in this capacity can know the period specified for repeating the oath for those who have not repeated the oath so far, and according to Article (19/2) of Law No. 4 of 2023, the third amendment to the Law on the Elections of the Council of Representatives, Provincial Councils and Districts No. 12 of 2018 in force)), the Federal Supreme Court finds that the application must be rejected for lack of jurisdiction, as the powers and competencies of this court are exclusively stipulated in Articles (52 and 93) of the Constitution of the Republic of Iraq of 2005, Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, and some other special laws, None of these powers gives the Court jurisdiction to interpret the provisions of laws, except on the occasion of challenging its unconstitutionality, including the text of Article (19/2) of Law No. (4) of 2023, the Third Amendment Law to

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the Elections Law of the Council of Representatives, Provincial Councils and Districts No. 12 of 2018, as amended, It also does not have jurisdiction or authority to answer an inquiry received from one of the official authorities or one of the authorities in the state, unions or federations, especially since the subject in question concerning which the statement of opinion is requested, is likely to be the subject of an existing dispute and litigation before this court. The Federal Supreme Court decided to reject the inquiry request submitted by Rakan Saeed Ali / Governor of Kirkuk for lack of jurisdiction. The decision has been issued unanimously, final and binding for all authorities according to the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 and Articles (4 and 5/2nd) of the Federal Supreme Court Law No. (30) of 2005 as amended, Law No. (25) of 2021. The decision has been edited in the session dated 2/Ramadan/1445 A.H. corresponding to 13/3/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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