

Republic of Iraq
Federal Supreme Court
Ref. 70 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 29/5/2023 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: Duraid Jameel Ishua/ member of the ICR for the Christian component – his agent the barrister Ahmed Saeed Mousa.

The Defendant: Speaker of the ICR/ being in this capacity – his agents the legal counselor Haytham Majid Salim, and the official jurist Saman Muhsin Ibrahim.

The Request

The plaintiff claimed through his agent that on 26/3/2023, the voting session was held on the proposed law on the third amendment to the Provincial and District Councils Election Law No. (12) of 2018, and Article (6) of it included two proposals for paragraph (1st/Jim) on the seats of the Christian component quota, as follows: ((The committee's first proposal: adding two paragraphs in sequence (Jim, Ha) to read as follows: Jim: Seats allocated to the Christian component for membership in the Council of Representatives Iraq shall be one electoral district and the nomination shall be individual within the electoral district and the winner shall be the winner with the highest votes)) The other proposal stipulates that (the seats allocated to the Christian component of the membership of the Council of Representatives shall be divided into two constituencies divided as follows: 1- Erbil and Dohuk seats, the Kurdistan region with its administrative borders shall be one constituency. 2- Seats in Baghdad, Nineveh, and Kirkuk Iraq except for the Kurdistan region with its administrative borders shall be one constituency.) Instead of voting on these two proposals according to their sequence received from the Legal Committee, the Speaker of the Council requested a vote on the second proposal before the first proposal, and the President claimed, contrary to the actual

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result of the vote, that the Council had approved the second proposal, and the first proposal was not put to a vote, and the plaintiff challenges the voting procedures on the paragraph of the second proposal of paragraph (1st/Jim) of Article 15 following Article 6 of the proposed law on the third amendment to the Provincial and District Councils Elections Law No. 12 of 2018 and following Article (93/3rd) of the Constitution, he also challenges the decisions taken based on these procedures because they were issued against the will of the majority of those present, for violating article 59/second of the constitution. The lawsuit was registered with this court No. (70/Federal/2023) and the legal fee was collected in accordance with Article (21/1st) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, and the defendant shall be informed of its petition and documents following item (2nd) of the same Article, his agents replied with the answering draft dated 17/4/2023 and requested to dismiss the lawsuit and charge the plaintiff fees and expenses, as the quorum is achieved, and the voting procedures were conducted under the procedures followed and the provisions of the rules of procedure of the Council of Representatives, all of which are confirmed by the minutes of session No. (16) on 26/3/2023, which is an official document that may only be challenged by forgery, and the legislation voted on by the Council of Representatives is a legislative option following the provisions of article 61 of the constitution, after completing the procedures required by the court's rules of procedure, a date was set for the pleading in accordance with Article (21/3rd) thereof, and the parties were informed of it, and on the appointed day the court was formed, and the plaintiff and his agent attended, and the defendant's agent attended and began to conduct the public presence pleading, the plaintiff and his agent repeated what was stated in the lawsuit petition and requested a judgment according to it, the defendant's attorney answered and requested to dismiss the lawsuit for the reasons stated in the list attached to the lawsuit papers, the both parties repeated their previous statements and requests, and since nothing remains to be said, the end of the minutes has been made clear, and the court issued the following judgment:

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The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, the court noted that the summary of the plaintiff's lawsuit (Duraïd Jamil Ishua) is that he claims in his lawsuit and through his attorney (Ahmed Saeed Musa) that on 26/3/2023, a session of the Council of Representatives was held to vote on the proposed law on the third amendment to Law No. 12 of 2018, and article 6 of it included two proposals for paragraph (1st/Jim) of article 15, which is detailed in the lawsuit, noting that the article that concerned with amending article 15 of the Provincial Councils Elections Law Districts No. (12) of 2018 are Article (9) and not as stated in the lawsuit in sequence (6) and the Speaker of the Council of Representatives, in addition to his job, asked to vote on the second proposal without the first, and did not obtain the quorum and claimed to have obtained, after the objections of the plaintiff, he repeated the vote and did not achieve the quorum necessary to pass this article, so he challenges the voting procedures on the above paragraph, as well as the decisions are taken based on this procedure because they were issued against the will of the majority of those present, thus, it violates Article 59/2nd of the Constitution. Through the court's scrutiny of the petition, it was noted that the plaintiff did not mention the requests that he wants to rule on because the lawsuit is a person's request for his right from another before the judiciary, according to what is stated in article 2 of the Civil Procedure Law in force, and that article (46/6) of it requires mentioning the requests while the plaintiff only mentioned the facts of the case without their requests as detailed in the lawsuit petition, and the court does not have the right to complete the deficiency based on article 50 of the Civil Procedure Law By requesting the plaintiff because the plaintiff has thus increased his lawsuit contrary to the provisions of Article (59/3) of the Civil Procedure Law, and for the foregoing, the plaintiff's claim shall be subject to dismissal in form, therefore, the Federal Supreme Court decided to dismiss the plaintiff's lawsuit (Duraïd Jamil Ishua) in form and to charge him the judicial expenses and attorney fees of the defendant's agents, being in this capacity, Counselor Haitham Majed Salem and official jurist Saman Mohsen Ibrahim, an amount of (one hundred) thousand dinars distributed according to the legal ratios. The decision has been issued unanimously according to the provisions of articles

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(93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5) 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 9/Dhul Qaeda/1444 Hijri coinciding with 29/May/2023 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court

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