



Republic of Iraq
Federal Supreme Court
Ref. 7unified with 8/federal/2024

Kurdish text

The Federal Supreme Court (F S C) has been convened on 19/2/2024 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, 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 in the lawsuit (7/Federal/2024): Amile Boutros Costantine – candidate for Christian Kota for Kirkuk Provincial Council
His agent the barrister Ghassan Daoud Rashid .

The plaintiff in the lawsuit (8/Federal/2024): Muhammad Mahdi Amin / Chairman of the Kirkukna Alliance / 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 in the lawsuit (7/Federal/2024) through his agent that on 18/12/2023, provincial council elections were held throughout Iraq, including Kirkuk Governorate, based on the provisions of Article (5/Alif) of Law No. (4) of 2023, the third amendment to the Council of Representatives, Provincial Councils and Districts Elections Law No. (12) of 2018, and since Article (13) thereof, concerning the elections of Kirkuk Governorate, states that ((cancelling the article (35) of the law and its amendments in Law No. (14) of 2019 is hereby repealed to read

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as follows: First: The Independent High Electoral Commission, in coordination with the competent ministries (Interior, Health, Justice, Trade, Planning) and a representative of each component of the Kirkuk Social Governorate from the members of the Council of Representatives from the province to audit the voter records in the province on the following bases: Alif- Citizens registered in the 1957 census with the exception of citizens of the Zab district and Sarkaran district, they shall be included in the Kirkuk governorate election register approved in the elections for the Council of Representatives or provincial councils. Beh- Returning deportees who have exceeded the fact-finding committee of Article (140) of the Constitution or those who will skip its procedures in accordance with the applicable legal conditions and controls. Jim- Citizens residing in Kirkuk Governorate whose residence is proven through the ration card before 2003) the defendant and the ministerial committees did not complete the work entrusted to them in accordance with the requirements of the said article before the specified date of the provincial council elections, and therefore the elections held in the province of Kirkuk constituted a serious breach of the work of the Independent High Electoral Commission and were considered a legal violation of the application of the text of the aforementioned article, it affected the validity of the election results, which opened the door to challenge the validity of their results due to the manipulation of the votes of voters and the falsification of their wills, the voter registers in Kirkuk, on which the electoral process depends, are fundamentally the subject of challenge, therefore, the validity of the election results produced by the electoral process cannot be accepted without the completion of the voter register audit and to ensure the achievement of societal peace, so the

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plaintiff asked this court to rule to cancel the election results in Kirkuk province as well as obliging the defendant / being in this capacity to audit the voter records in Kirkuk governorate according to the aforementioned article, and issuing a state order obliging the defendant / being in this capacity to suspend the ratification of the validity of the final results of the Kirkuk provincial council elections until the lawsuit is resolved. After registering the case with this court No. (7/Federal/2024), 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 Rules of Procedure of the Federal Supreme Court No. (1) of 2022, his deputy replied with the reply list dated 25/1/2024, which summarized that the Independent High Electoral Commission had started implementing Article (13) immediately after the publication of the law in the Official Gazette on 8/5/2023, and the Office Order was issued by the General Secretariat of the Council of Ministers No. (23556) on 7/7/2023, and the Council of Representatives' letter No. (998) was issued on 20/7/2023, which included the nomination of members of the committee from the members of the Council of Representatives, representatives of the components of Kirkuk Governorate, and the committee began to hold several meetings and there were recommendations that were submitted to the Board of Commissioners for approval, and the relevant authorities were approached for the purpose of accomplishing the tasks entrusted to the committee in accordance with the law, as for the plaintiff's request to cancel the results of the elections in Kirkuk governorate, it is a request that has no basis in the law, as the elections were held in a democratic and fair manner, and those results were ratified after all appeals were resolved by the judicial authority for elections, and the court's decision

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was issued to reject the lawsuit numbered (256 and its union 264/federal/2023), which was filed regarding the voter register in Kirkuk and demanding that elections not be held in this governorate, which is the same subject of this lawsuit for violating the text of Article (23) of the court's internal regulations, in addition, the jurisdiction of the court is limited under Article (93) of the Constitution and there is no reason for the subject matter of the lawsuit to institute it, as there is no decision or constitutional violation of a law, system or constitutional issue, so he requested to reject of the lawsuit and charging the plaintiff the expenses. After completing the procedures required by the court's internal regulations, a date was set for the consideration of the case without pleading in accordance with Article (21/3rd) thereof, in which the court was formed and scrutinized the plaintiff's requests, his supports, and the defenses of the defendant's agent, the court reviewed the list of the plaintiff's agent dated 18/2/2024, according to which he requested to bring the case file (256/Federal/2023) and link it with his lawsuit because it contains evidence and evidence confirming that the Commission did not audit the voter records the court decided to reject the application for lack of justification, the court scrutinized and decided to consolidate the case (8/Federal/2024) pending on the same day with this lawsuit and considering the lawsuit (7/Federal/2024) as the original, due to the unity of the subject matter based on Article (76/2) of the Civil Procedure Law No. (83) of 1969, as amended, and that the court had previously issued its decision (7/Federal/State Order/2024) and (8/Federal/State Order/2024) on 21/1/2024 included the rejection of plaintiffs' applications on the issuance of the state order for the reasons stated in the two decisions and after the court has completed its

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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 plaintiffs Amile Boutros Costantine and Muhammad Mahdi Amin filed the lawsuit before this court, and it included two requests, the first is to cancel the results of the elections for the provincial councils in the province of Kirkuk which was conducted on 18/12/2023, due to the failure of the defendant, Chairman of the Board of Commissioners of the Independent High Electoral Commission, being in this capacity, to audit voter records as required by Article (13) of Law No. (4) of 2023 the third Amendment to the Elections Law of the Council of Representatives, Governorate Councils and Districts No. (12) of 2018, their second request is to oblige the defendant / being in this capacity to scrutiny voter records in Kirkuk province according to the aforementioned article this court finds that its jurisdiction is defined under Articles (52 and 93) of the Constitution of the Republic of Iraq for the year 2005, and (4) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021 none of these terms of reference are contained in the plaintiffs' applications, and the Court noted that the provincial council elections including the Kirkuk Provincial Council was held on 18/12/2023 and the Independent High Electoral Commission the final results were announced, and therefore the second request of the plaintiffs has become irrelevant, and for the foregoing, the Federal Supreme Court decided to rule as follows:

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First: Reject the lawsuit of the plaintiffs Amile Boutros Costantine and Mohammed Mehdi Amin regarding their request to annul the election results in Kirkuk province due to lack of jurisdiction.

Second: Reject the lawsuit of the plaintiffs Amile Boutros Costantine and Muhammad Mahdi Amin regarding the claim to audit the voter records in Kirkuk governorate, as it became irrelevant because the elections were held on 18/12/2023.

Third: Charging the plaintiffs with the expenses, fees and advocacy fees of the defendant's agent/ being in this capacity as legal advisor Ahmed Hassan Abd an amount of one hundred thousand dinars distributed in accordance with the law.

The 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 Articles (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 9/Shaaaban/1445 A.H. corresponding to 19/2/2024 AD.

Judge
Jasem Mohammad Abboud
President of the Federal Supreme Court

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