

Republic of Iraq
Federal Supreme Court
Ref 82/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 22/4/2024 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 Khaled Taha Ahmed who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Salem Ali Mohamed – Secretary General of the National Forces Union Party – His agent the barrister Salah Hassan Salim.

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 through his agent that since the establishment of the political process in Iraq after 2003, the defendant has adopted ration card records as a basis for the voter register, which is a violation of the constitution, which adopted the criterion of the number of souls of Iraq in the elections by a seat (one for one hundred thousand people) of the population of Iraq, contrary to the criterion adopted in Article (15/2nd) of the Elections Law No. (16) of 2005, which adopted the criterion of the number of voters registered in the records of each governorate, and because the text of this article contradicts Article (49/1st) of the Constitution, where it is not permissible to enact a law that conflicts with the Constitution under Article (13/2nd) thereof, the Federal Supreme Court issued its decision No. (15/T/2006), according to which the text of the said article was repealed the court ordered the Election Commission to adopt ration card records as the basis for voter

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registers, also the court's decision No. (11/Federal/2010) which confirms the violation of the aforementioned election law because it relied on the population census of the Ministry of Commerce for the year 2005, which is based on the ration card, in the parliamentary elections of the Iraqi Council of Representatives for its session in 2010, without an official census issued by a competent authority, and since the Ministry of Commerce is not the competent authority in determining the souls of Iraq and that its statistics came to the necessities of an economic circumstance that Iraq is going through related to foodstuffs in that period, the Council of Ministers has decided not to adopt the ration card and its records among the official documents of citizens, and therefore it is not permissible to adopt these records in the electoral processes on which the building of the political process and the formation of the government and parliament depend the letter of the Independent High Electoral Commission / Electoral Administration No. (Alif Dal/6/1023) on 21/2/2024, and the attached table shows that there are more than eleven million unregistered voters, which is a waste of the political rights of citizens, and a constitutional violation of Article (20), which states that (citizens, men and women, have the right to participate in public affairs, and the enjoyment of political rights, including the right to vote, vote and be nominated), and the letter of the Ministry of Interior / Directorate of Civil Status, passports and Residence No. (394) on 21/2/2024 and the attached table indicated that the number of Iraq's registered population in the civil information system (national ID) is (35,049,658) people. The Ministry of Interior's plan is to register all Iraqis inside Iraq during this year according to the letter, and outside Iraq by the end of this year, based on the letter statistics and geographic information Systems Authority No. (3. Heh/48) on 25/2/2024, which indicated that the population of

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Iraq is (43,324,018), and this means that Iraqis who are not biometrically registered in the civil status departments (national card) are eight million and of all ages, which confirms that the work of the Ministry of Interior and its biometric registration is more accurate, as well as its work in registering births and deaths accordingly, the plaintiff requested that the defendant be obliged to adopt the civil status records (national card) as an alternative to the electoral card because they are accredited and official records, and after registering the case with this court No. (82/Federal/2024) and 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 Internal Regulations of the Federal Supreme Court No. (1) of 2022, his agent replied with his regulation dated 17/4/2024 to its conclusion: that the Independent High Electoral Commission is not competent to legislate electoral laws and is not valid to be a litigant in this case, and that the plaintiff challenges electoral laws that were repealed by subsequent laws and objects to electoral processes that took place decades ago, and that the Independent High Electoral Commission relied on ration card data in preparing the voter register based on the electoral laws issued at the time, there are technical and procedural factors that prompted the legislative authority to adopt the data of this system, including the ration card system at that time is the only electronic system that includes information for all citizens, which achieves the criterion of comprehensiveness, non-exclusion, and the absence of any other electronic system that includes such information, in addition to the fact that the civil registry at that time was a paper record, and the information in the ration card system is considered updated information as it is followed up by the head of the family because of its importance, whether as an official document at the time or as a source of material

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support, represented by foodstuffs for the card, and this system contains identification points that can be used in the dissemination and distribution of voters, represented by food agents, and these points are known and known to citizens, in addition to other reasons that led the legislative authority to adopt this system within electoral laws in the preparation of the voter register, and the Commission has taken steps to leave the ration card system, this is through developmental activities represented by biometric registration and reliance on voter biometric data, and voter registration is optional, considering that voting is a right for every voter and not a duty, and if reference is made to the statistics of the number of registered and unregistered voters, this does not mean that the commission confiscates the rights of citizens because the basis of the democratic process is optional and not mandatory, and the difference the number of registered and unregistered voters is approximately (9) million and not (11) million, and based on the text of Article (16/10th) of the amended Elections Law of the Council of Representatives, Governorate Councils and Districts No. (12) of 2018, which states that (the Commission, in coordination with the Ministry of Interior, shall work to benefit from the national card and its data and study the possibility of adopting it with the long-term biometric electoral electronic card...) a committee was formed by Office Order No. (24084) on 15/1/2024 to prepare an integrated plan for the adoption of National card in the upcoming parliamentary elections, since the establishment of the system, the Commission has taken the initiative through the coordinating committees and memoranda of cooperation in order to study the possibility of adopting this system or not, and it is also not possible to decide on the possibility of adopting the national card information until the completion of the coordinating committees in charge of this subject because the unified card system

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faces technical and technical challenges that prevent reliance on it directly, which may make it impossible to achieve this matter, and since the plaintiff challenges procedural and technical matters and not by law, decision or system, or instructions issued by a federal authority, so he requested to reject of the plaintiff's lawsuit charging him the expenses, and after completing the procedures required by the court's internal regulations, a date was set for the consideration of the lawsuit without pleading based on Article (21/3rd) thereof, in which the court was formed and the lawsuit began to be considered, the court scrutinized the plaintiff's requests, his supports, and the defenses of the defendant's agent, 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 Salem Ali Mohamed, Secretary General of the National Forces Union Party, filed this lawsuit against the defendant, Chairman of the Board of Commissioners of the Independent High Electoral Commission, being in this capacity it asks the defendant to adopt civil status records (national card) as an alternative to the electoral card because they are accredited and official records and in constant update, and they are the basis for obtaining identification papers for citizens, and they are also the basis in the statement of births and deaths, determining the ages and everything related to the records of citizens, including voters, for the reasons detailed in the lawsuit petition and set forth in the preamble to this judgment, and after the court reviewed the defenses of the defendant's agent by virtue of its regulation dated 17/4/2024, in which it concluded to request the reject

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of the lawsuit for the reasons stated therein and set forth above, the Federal Supreme Court finds that its jurisdiction is defined under Articles (52 and 93) of the Constitution of the Republic of Iraq of 2005, as well as Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021 and not among those competencies to consider the requests stated by the plaintiff in the lawsuit petition, therefore, the plaintiff's lawsuit is outside the jurisdiction of this court, so the Federal Supreme Court decided to reject the plaintiff's lawsuit Salem Ali Mohammed for lack of jurisdiction, and to charge him the fees, expenses and attorneyship fees of the defendant's agent, the legal adviser, Ahmed Hassan Abed, an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, final and binding on all authorities based on 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 Decree No. (30) of 2005 as amended by Law No. (25) of 2021 and it has been made clear in the session dated 13/Shawwal/1445 A.H. corresponding to 22/4/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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