



Republic of Iraq  
Federal Supreme Court  
Ref. 83 with its unified 131 and 185 / federal / 2023

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, Dyar Mohammed Ali, and Munthir Ibarhim Hussein who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff in the lawsuit (83/federal/2023): Ziyad Jabbar Mohammed – his agents, the barristers Hussein Fahim Hadi and Hazim Mohammed Nassir.

The Plaintiff in the lawshuits (131 and 185/federal/2023): Amanj Najeeb Shamoon – his agents, the barristers Muatamad Nimaa Abdul Muhsin and Hussein Fahim Hadi.

The Defendants: 1- Speaker Kurdistan Region Parliament – Iraq/ being in this capacity – his agent, the official jurist Sharmeen Khudhir Bahjat.

2- The President of Kurdistan Region – Iraq/ being in this capacity.

3- The Prime Minister of Kurdistan Region/ being in this capacity.

Their agent, the  
counselor barrister  
Ayad Ismaeel  
Mohammed

### **The Claim**

The plaintiff claimed in the lawsuit (83/Federal/2023) through the mediation of his agent that the Kurdistan Front, as a representative about the liberation movement of the people of Kurdistan and the de facto authority within the framework of its efforts and orientations towards democratic transformation through the elections, it issued the

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Kurdistan Parliament Election Law - Iraq No. 1 of 1992, which the Kurdistan Parliament made several amendments to, and some articles contained constitutional violations, so the plaintiff took the initiative to challenge them before this court for the following reasons: 1. Article (First) of Chapter One of the law stipulates: (The Kurdistan Parliament of Iraq consists of one hundred and eleven members), and here it is noted that the legislator does not rely on any objective criterion in determining the number of seats, as stipulated in the Constitution of the Republic of Iraq in Article (49/1<sup>st</sup>) thereof, that (The Council of Representatives consists of a number of members at a ratio of one seat for every hundred thousand people of Iraq representing the entire Iraqi people are elected by direct secret universal suffrage and take into account the representation of all components of the people in it) where the Iraqi Constitution relied on the demographic criterion in determining the number of parliamentary seats in line with internationally applicable standards and in dedication to the implementation of the constitutional principle The Iraqi legislator went to adopt the principle of population proportionality in determining the number of seats in the Council of Representatives, and provincial councils, however, the Kurdistan Regional Parliament neglected to adopt this principle, and if the number of seats in the Kurdistan Regional Parliament is calculated according to Article (49/1<sup>st</sup>), the total will be (44) seats: (18) seats for Sulaymaniyah Governorate, (15) seats for Erbil Governorate, and (11) seats for Dohuk Governorate, while when the application of Article (I) of the law - the subject of the challenge - the number of seats will become (111) seats, as follows: (45) seats for Sulaymaniyah Governorate, (39) seats for Erbil Governorate, and (27) seats for Dohuk Governorate, and here we will find the lack of any objective

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criteria for this disparity and the increase in the number of seats, which is a clear violation of Article (49/I) of the Constitution, and the legislator in the Kurdistan Parliament had to adopt the criteria contained in the Constitution of the Republic of Iraq for the year 2005, or international standards in determining the number of seats when legislating or amending the election law, especially since the Kurdistan Region does not have a constitution. 2. Article 9 of Chapter 2 of the law stipulates: (The Kurdistan Region of Iraq is considered one electoral region...) Accordingly, the results of the 2018 elections of the Kurdistan Regional Parliament of Iraq produced unfair results for the share of the governorates that make up the Kurdistan Region, as the governorate of Sulaymaniyah obtained (37) seats instead of its share (45) seats, according to the statistics of the Federal Ministry of Planning attached to the lawsuit petition, while the governorate of Erbil obtained (44) seats instead of its quota (39) seats, as well as the governorate of Dohuk obtained ( 30) seats instead of 27 seats, which is contrary to articles 16 and 20 of the constitution, which affirmed the principle of equal opportunities for all Iraqis, the right to participate in public affairs, and the enjoyment of political rights, including the right to vote, elect, and be elected. 3. Article 15 of the law stipulates that: (The Kurdistan Region has electoral records (electoral tables) with the names of voters according to electoral centers arranged according to the alphabet, including their professions, addresses, date and place of birth, and when this is not possible, the Supreme Authority may determine another appropriate way to achieve the required purpose), and that the legislator did not adopt the official data issued by the Ministry of Commerce or the Ministry of Planning because they are the two exclusive bodies that have accurate data on the general population of Iraq and in all governorates, and thus the voter register

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is inaccurate because it lacks the approved official data, which is contrary to the text of article 20 of the constitution, because it deprives a citizen whose name does not appear in the voter register of his right to vote, due to the inaccuracy of voter register data. 4. Article 36 bis of the law stipulates: (First: Five seats are allocated to the Chaldean Syriac-Assyrian candidates of the aforementioned component. Second: Five seats shall be allocated to the Turkmens to be competed by the candidates of the aforementioned component. Third: One seat shall be allocated to the Armenians to compete for the candidates of the aforementioned component...) This violates Article 16 of the constitution, which affirmed the principle of equal opportunities for all Iraqis, due to the legislator's inaccuracy in determining the minority quota due to the lack of accurate official data that can be relied upon, and among its effects that intersecting with the principle of equal opportunities, the Christian and Turkmen component in Sulaymaniyah province is not represented in all electoral cycles that took place in the region, and the legislator had to follow the same principle followed by the constitutional legislator in dividing the quota among the provinces. 5. Article 22 of the law stipulates in its first paragraph that: ((Each political entity in Kurdistan - Iraq submits its own list that includes the names of its candidates throughout Kurdistan - Iraq containing a percentage of no less than (30%) of women, and the names of the candidates are arranged in a way that ensures the representation of the said percentage of women in parliament, provided that the number of candidates in each electoral list is not less than three)), which prevented individual candidacy, including the nomination of independents in the elections to the regional parliament, and this violates article ( 20) of the Constitution, and Federal Supreme Court

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Decisions No. (12/Federal/2010), (36/Federal/2013) and (18/Federal/2021). Therefore, the plaintiff asked this court to rule that articles (1, 9, 15, 22, and 36) of the Kurdistan Iraqi Parliament Election Law No. 1 of 1992, as amended, are unconstitutional, and that the defendants be charged fees and expenses. After registering the case with this court No. (83/Federal/2023) and collecting the legal fee for it, and informing the defendants of its petition and documents in accordance with Article (21 / first and second) of the rules of procedure of the Federal Supreme Court No. (1) of 2022, and for not receiving an answer after the end of the period specified in paragraph (second) mentioned above, and based on Article (21/third) of the court's rules of procedure, a date was set for the pleading and the parties were informed of it, and on the specified day, the court was formed, and the plaintiff's attorney, lawyer Hussein Fahem, and the second defendant's attorney attended. Lawyer Iyad Ismail, and the first and third defendants did not attend despite the notification in accordance with the law, and began to conduct the public presence pleading, the plaintiff's attorney repeated what was stated in the lawsuit petition and requested a ruling accordingly. The second defendant's attorney answered and requested the dismissal of the lawsuit for the reasons stated in his response list dated 11/6/2023, its conclusion (that the plaintiff filed his lawsuit in his personal capacity and does not represent any official body and does not meet the legal conditions and standards - mentioned in Article 4<sup>th</sup> of the Court Law, Article (20) of its Rules of Procedure, nor Article (6) of the Civil Procedures Law related to the interest, which qualifies him to be a litigant to all defendants, including (his client - President of the Kurdistan Region / being in this capacity). Therefore, the litigation is incompatible in this lawsuit absolutely, this necessitates the dismissal

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of the lawsuit in form by the judicial litigation, and based on Article (20/III) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, which states: (The plaintiff has not benefited from the contested text in whole or in part), as the plaintiff is (the head of the Patriotic Union of Kurdistan bloc in the regional parliament) and he personally benefited from the contested legal texts, as he won a seat in the Kurdistan Parliament elections in the fifth session (last session), which took place in the contested law remained in its current texts, and the list of the party to which he belongs also benefited from this, winning (21) seats in parliament in this session. The provisions of article 141 of the constitution stipulate the following: (The laws that have been enacted in the Kurdistan Region continue to operate since 1992, and the decisions taken by the Kurdistan Regional Government - including court decisions and contracts - are effective, unless they are amended or canceled according to the laws of the Kurdistan Region, by the competent authority therein, and unless they are contrary to this constitution), and this article has given the law - the subject of the challenge issued before the entry into force of the Iraqi constitution - legal legitimacy, and therefore it cannot be challenged constitutionally, and the Iraqi constitution did not include a text that stipulates Article (117/1<sup>st</sup>) of the Iraqi Constitution in force stipulates that (this Constitution upon its entry into force, recognizes the Kurdistan Region and its existing authorities as a federal region) and this recognition of the authorities is an acknowledgment of what is stated in the laws of those authorities and the contested text of those laws, the distribution of electoral seats among the masses of individual voters is permissible and not bound by numbers, but rather depends on the convictions of those in charge of the elections, and therefore there is no particular necessity for cancellation or

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amendment. The plaintiff's view regarding the limitation of the number of seats in the Kurdistan Parliament is an argument against him and not for him, according to his point of view, the number of seats in the parliament in the region should be between (54 to 55) seats, while the first article of the contested law stipulates that the number of seats should be (111) seats, the more seats the more comprehensive, accurate, productive and closer to the voter, provided that the increase is reasonable and not excessive, and this fact becomes more evident in the case where the legislator adopts (according to his discretion) the system of multiple electoral districts, thus, the plaintiff's point of view contradicts his argument related to the unconstitutionality of the first article - the subject of the challenge - and there is no link between the contested article (9) and the constitutional articles (16 and 20), as the adoption of the single or multiple electoral district system has nothing to do with the principle of equal opportunities at all, as the two topics are completely different, and the adoption of this or that system does not confiscate at all the citizen's right to participate in political life, whether in terms of voting, electing, nominating or public affairs. On the other hand, the adoption of the contested law of the single-district system is one of the legislative options left to the discretionary power of the legislator in light of the public interest and the selection of the best to achieve justice and proximity to the voter, and this does not constitute any constitutional violation and cannot oblige him to adopt a specific system, and this is what the court went to in its decision No. (18/Federal/2021) on 6/7/2021, as for article (15) of the law - the subject of the challenge - relating to the preparation of voter records, this article was repealed by the issuance of the Independent High Commission for Elections and Referendum Law in the Region No. (4)

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Of 2014, where Article (VI - First-1) of this law stipulated the powers of the Board of Commissioners and including (1. Establishing, updating and revising the voter register through the modern means available, the concerned authorities shall cooperate and coordinate with the Council for this purpose) article (4/5<sup>th</sup>) thereof, it stipulates that among the tasks of the Commission is (managing the voter registration process and organizing and updating their records to ensure the right to vote.) as Article (15) contested is considered canceled according to Article (20) of the Commission Law, which requires not to apply any legal provision or decision that contradicts the provisions of this law. The challenge to Article (36) of the law is also invalid because it stipulated that the share of the coexisting components in the region is guaranteed within the seats of parliament and by (11) seats out of (111) seats competed by the children of the components stipulated in Article (36) of the law without specifying a specific geographical distribution or a specific governorate, as the article - the subject of the challenge - never talked about the distribution of component seats on the basis of governorates until the plaintiff claims that one of the effects of this text is the lack of representation of the Christian and Turkmen component In Sulaymaniyah province, the entire region is considered a single electoral district, and the votes obtained by the candidates of each component throughout the region are counted and the one who obtains the most votes receives a seat in parliament, moreover, the text of Article 22 of the contested law was clearly and clearly drafted, and did not prevent individual candidacy and the nomination of independents, and that the law requires that every individual or independent candidate who intends to participate in the elections must be a political entity consisting of at least three persons, provided that

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one of these three is a woman, in order to ensure the representation of the quota for women, in strict application of the true constitution. The court noted that the two lawsuits numbered (131/Federal/2023) and (185/Federal/2023) pending by it have the same subject matter as this lawsuit, therefore, the court decided, based on the provisions of Article (76/2) of the Civil Procedure Law No. (83) Of 1969, as amended, to unify all cases and consider the lawsuit (83/federal/2023) as the original, the plaintiff's agent attended in the lawsuit (131/Federal/2023) and (185/Federal/2023) and reiterated his request to rule on the unconstitutionality of Law No. (1) Of 1992 (Iraqi Kurdistan Parliament Election Law), The Director of Legal Affairs in the Kurdistan Regional Parliament - Iraq, human rights employee Sharmin Khader Bahgat, an agent for the defendant, the President of the Kurdistan Regional Parliament / being in this capacity, and presented a copy of the rules of procedure of the Kurdistan Regional Parliament based on the court's assignment to her, linking within the case papers and the court decided According to Articles (112 and 113) thereof, the acceptance of her agency No. (5/Yeh/80 on 17/7/2023) and added that she requests to delay the lawsuit until the Kurdistan Regional Parliament is elected and formed, the court decided to reject the request because it was not based on any legal basis, because the resolution of the lawsuit does not depend on the election and restructuring of the Kurdistan Regional Parliament, a reply list was submitted on 6/8/2023, requesting the dismissal of the lawsuit for the reasons stated therein (which are the same reasons stated by the second defendant's attorney mentioned above) that the court reviewed and linked within the lawsuit papers, then the third defendant (the President of the Kurdistan Regional Government / being in this capacity) attended his attorney, lawyer Iyad Ismail, and submitted a

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response list requesting the dismissal of the lawsuit for the reasons stated therein (which are the same as those stated in the lists filed by the first and second defendants) that the Court reviewed and linked in the case papers, the Court decided to introduce the Independent High Electoral Commission (IHEC) as a third person ((for the purpose of clarifying the statement of what voter registers will be adopted when holding elections for the Kurdistan Regional Parliament, and whether the voter register of the Federal Council of Representatives will be adopted or other procedures will be adopted for the purpose of preparing those registers, and what are the ways that the Independent High Electoral Commission will adopt in dividing the Kurdistan Region into electoral districts, and how to distribute seats to those constituencies, assuming that the Kurdistan Region consists of several electoral districts, as the court clarified from the representative of the Commission. On the mechanism that is followed to ensure the quota for women (30%) in the regional parliament in the event of the adoption of individual candidacy, the court also clarified from it that the origin of Article (9) contained in Law No. (1) of 1992 stipulates (Iraqi Kurdistan is divided into electoral areas, provided that they are not less than four regions)), which was repealed by virtue of Article 4<sup>th</sup> of the Third Amendment No. (47) of 2004, and replaced by the following text (Article 9 is repealed and replaced by the following: The Kurdistan Region of Iraq is considered a single electoral area and is divided into electoral centers) and assuming the issuance of a decision by this court ruling the unconstitutionality of the last text according to which the original Article (9) of the aforementioned law was amended, what is the mechanism that the Commission can follow in dividing the Kurdistan Region of Iraq into electoral districts and is it possible to rely According to what was stated in the old text

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specifically regarding the designation of the Kurdistan Region as four electoral regions)), the representative of the Independent High Electoral Commission, Legal Counsel Ahmed Hassan Abdul, attended and explained that the Independent High Electoral Commission adopts the federal biometric voter register, which is adopted in the elections of the Council of Representatives, as for the mechanism followed by the Commission in distributing seats assuming that the Kurdistan Region region is considered several electoral districts, when referring to the Council of Representatives Elections Law No. (12) of 2018 (as amended) by Law No. (4) of 2023, the aforementioned law distributed electoral seats, considering that the province of Sulaymaniyah ( 18) seats, Erbil Governorate (15) seats, and Dohuk Governorate (11) seats, meaning that the total electoral seats for the governorates of the Kurdistan Region (44) seats, i.e. (41%) for Sulaymaniyah Governorate, Erbil Governorate has (34%), and Dohuk Governorate (25%), As for the Kurdistan Regional Parliament, according to the mentioned percentage, Sulaymaniyah Governorate has (41) seats, Erbil Governorate (34) seats, and Dohuk Governorate (25) seats on the basis of three districts and the total seats of the Kurdistan Region (111) according to what was stated in the Kurdistan Regional Parliament Law and Article (36 bis) did not specify the distribution of quota seats to the governorates of the region, but the region was considered one electoral district, and if the mentioned percentages are applied. On the quota seats, the result will be four seats for Sulaymaniyah governorate, four seats for Erbil governorate, and Dohuk three seats, on the basis that Sulaymaniyah governorate has two seats for the Christian component and two seats for Turkmen, Erbil governorate has two seats for the Christian component and two seats for Turkmen, and Dohuk governorate has three seats, based on

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one seat for the Christian component, one seat for Turkmen, and one seat for Armenians, noting that the election law specified the seats of the components for Christians one seat in Erbil governorate and one seat in Dohuk governorate, and the third person's agent answered the court's inquiries with the explanatory regulations dated 27/12/2023, 21/1/2024 and 7/2/2024, which included the following: ((To answer the mechanism that is followed to ensure the quota for women in the regional parliament, Article (twenty-second/1) of the amended Kurdistan Region Parliament Elections Law stipulates (each political entity in Iraqi Kurdistan to submit its own list). The names of its candidates throughout Iraqi Kurdistan contain at least 30% of women, and the names of the candidates are arranged in a way that ensures the representation of the mentioned percentage of women in parliament, provided that the number of candidates in each electoral list is not less than three), and Article (twenty-ninth / second) stipulates that (the voter may mark the name of one of the political entities recorded in the electoral card and mark the name of one of the candidates from the same entity or sufficiency with the political entity alone), through the two legal texts, the system adopted under this law is the system (proportional representation) and accordingly, the Independent High Electoral Commission will issue the system and instructions for registration and approval of candidates for the elections of the Kurdistan Region of Iraq and will oblige the electoral lists to submit a list of candidates of not less than three candidates, provided that they include (a woman) and if the individual nomination is adopted, the individual candidate has nothing to do with the issue of women's quota, and the Kurdistan Region Parliament - Iraq has already issued Law No. (1) Of 2015 (Law of Administration of Halabcha Governorate in the Kurdistan Region - Iraq) and under this law it was

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decided that the city of Halabcha with its administrative boundaries will be one of the governorates of the Kurdistan Region of Iraq, in the elections of the Iraqi Council of Representatives that took place on 10/10/2021, the city of Halabcha was an electoral district of Sulaymaniyah Governorate, as the Iraqi Council of Representatives Elections Law No. (9) of 2020 divided one governorate into several electoral districts, and Sulaymaniyah Governorate consisted of (5) electoral districts, and the third constituency consisted of regions (Halabcha, Sayed Sadiq, Sharzor, Penguin) and included (5) five registration centers (1282, 2282, 3282, 2281, 3281) and (3) seats were allocated to it. From the above, we see that it is possible to consider the city of Halabcha as a fourth electoral district in the event that four electoral districts consisting of (3) seats are adopted, while ensuring the representation of the percentage of women in them, as for the statement of the number of voters registered with the Commission in the Kurdistan Region and how to distribute them to the four electoral regions according to what was stated in the response lists submitted by the Commission, they are: (Erbil electoral area: total number of voters: 1,366,462, number of registered voters biometrically: 963,783, number of unregistered voters biometrically: 402,679) and (Dohuk electoral area: total number of voters: 926,746 and number of biometrically registered voters: 710,087 and the number of unregistered voters biometrically: 216,659), (Sulaymaniyah electoral area: total number of voters: 1,262,367, number of biometric registered voters: 936,527, number of unregistered biometric voters: 325,840), (Halabcha electoral area: total number of voters: 233,785, number of biometrically registered voters: 177,292, number of non-biometric registered voters: 56,493), (grand total: total number of voters: 3,789,360 and total number of biometrically registered voters:

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(2,787,689 and total number of non-biometric voters: 1,001,671)); After completing its inquiry from the Independent High Electoral Commission, the court decided to remove it. The court noted that the application submitted by (Yaakov Korkis Yagu / Office of the Secretary of the Assyrian Democratic Movement) dated 26/12/2023 and the application submitted by (Muhammad Saad Eddin Anwar / Chairman of the Turkmen Development Party) dated 27/12/2023, who request the entry of third persons in the lawsuit, and based on Article (71) of the Civil Procedure Law, the court decided to reject what was stated in the two requests. Based on the court's approach to the Independent High Electoral Commission, its letter No. (24/Ra.Mim/34) was received on 14/2/2024, which included the following: Based on the court's decision No. (233/Federal/2022), which entrusted the task of conducting elections for the Kurdistan Parliament - Iraq to the Federal Commission, and a reference to the amended Law of the Independent High Electoral Commission No. (31) Of 2019, which obligated it to supervise elections and referendums throughout Iraq when their requirements are available in accordance with the laws in force. Whereas the conduct of any electoral process requires the existence of an electoral law and a financial budget, on which the operational timetable for the implementation of the tasks of the electoral process is built, from the commencement of voter registration and ending with polling day, and after polling day from the consideration of complaints and appeals, and then the ratification of the results, and the electoral law is the main element in the light of which the date of voting is determined, and that the absence of a ready-made electoral law makes the issue of preparing the timetable and determining the polling day impossible, and whereas the law Under the First Amendment to the Commission's

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Law, the Commission was obliged to hold elections for the Kurdistan Regional Parliament, the existence of an electoral law will ensure a fair, transparent and fair electoral process that guarantees all equal and equal rights and opportunities for all citizens of the region in line with the provisions of the Constitution in articles 14, 16, and 20. Based on the foregoing, the preparation of the timetable for any electoral process requires a period of time not less than (six months), and this period is not available if we take into account the date of issuing the decision on the case pending before the Federal Supreme Court, and the remaining period of the Board of Commissioners under the First Amendment to the Law The Commission, which will expire on 7/7/2024, and accordingly requested the court to take into account the remaining period of life of the Board of Commissioners when issuing the decision on the lawsuit)) The court reviewed the aforementioned letter and linked it within the case papers. The parties repeated their previous statements and requests, and after the Court had completed its scrutinies, the end of the argument has been made clear and the court issued the following ruling:

### **The decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiffs in the lawsuit (83 and its units 131 and 185 / federal / 2023) challenged before this court the Kurdistan Parliament Election Law - Iraq No. (1) of 1992, as amended, as it stipulated in its articles (First: The Kurdistan Parliament of Iraq consists of one hundred and eleven members), (Ninth: The Kurdistan Region of Iraq is considered a single electoral area and is divided into electoral centers) and (Fifteenth: The Kurdistan Region shall prepare electoral

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records with the names of voters according to electoral centers arranged according to the alphabet, including their professions, addresses, date and place of birth, if this is not possible, the Supreme Commission may determine another appropriate way to achieve the desired purpose) and (twenty-second / 1: Each political entity in Kurdistan - Iraq shall submit its own list that includes the names of its candidates throughout Kurdistan - Iraq containing a percentage of not less than 30% of women, and the names of the candidates shall be arranged in a way that ensures the representation of the said percentage of women in parliament, provided that the number of candidates in each electoral list is not less than three) and (thirty-sixth bis / First: Five seats are allocated to the Chaldean-Syriac-Assyrian candidates to compete for the said component. Second: Five seats are allocated to Turkmens to compete for candidates of the aforementioned component. Third: One seat shall be allocated to the Armenians to compete for the candidates of the said component..), whereas the legislator omitted the principle of population proportionality in determining the seats of the Kurdistan Regional Parliament, which was confirmed by Article (49/1<sup>st</sup>) of the Constitution of the Republic of Iraq for the year 2005, which stipulated (the Council of Representatives consists of a number of members at a ratio of one seat for every hundred thousand people of Iraq representing the entire Iraqi people, elected by direct secret universal suffrage, and taking into account the representation of all components of the people in it), and that the law considered the Kurdistan Region as one electoral region, which produced unfair results. For the 2018 elections, contrary to the principle of equal opportunities for all Iraqis, the right to participate in public affairs and enjoy political rights, including the right to vote, elect and be

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nominated stipulated in Articles (16 and 20) of the Constitution, in addition to the inaccuracy of the voter register, the legislator's failure to adopt the official statements issued by the Ministries of Commerce and Planning in organizing the voter register, which violates Article (20) of the Constitution, and the legislator's inaccuracy in determining the minority quota due to the lack of accurate official data leads to a violation of Article (16) of the Constitution, in addition to the fact that preventing individual candidacy, including the nomination of independents, violates Article (20) of the Constitution, and the decisions of the Federal Supreme Court, as well as the formal and objective constitutional defects that afflicted the law, as it was legislated contrary to procedures and contexts. The conditions required by the Constitution, especially since most of the amendments to the law relating to the fundamental issues therein were made during the period of extension of the term of Parliament, which attaches the character of illegality or unconstitutionality, based on the court's decision No. (233 and its units 239, 248 and 253 / federal / 2022) which includes ((ruling on the unconstitutionality of Law No. (12) of 2022 (the law of continuing the fifth session of the Kurdistan Parliament - Iraq) and considering the term of the fifth session of the Kurdistan Parliament as expired with the expiration of the legal period specified for it under Article (51) of Law No. (1) of 1992 as amended, and considering everything issued by the Kurdistan Parliament after that legal period constitutionally invalid)), so they requested a ruling on the unconstitutionality of Articles (1 and 9) and 15, 22/1 and 36 / first, second and third) of the Kurdistan Regional Parliament Election Law No. (1) Of 1992, as amended, and the ruling on the unconstitutionality of the entire law, and to plead in public presence and inform the court of the defendants' defenses submitted to this

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court under the regulations submitted to it by their agents and during the pleading, and to inform it of the answers of the third person from whom the clarification is (the Independent High Electoral Commission), and to inform the court of the articles of the Kurdistan Parliament Election Law - Iraq No. (1) of 1992, as amended, including Article (I), which stipulates that (the Kurdistan Parliament - Iraq consists of one hundred and eleven members) and Article (Six), which stipulates that (an independent supreme authority shall be formed by law to supervise). On the elections in the Kurdistan Region – Iraq and the Department of Electoral Operations, it is responsible for preparing voter lists, determining the electoral centers in the region, issuing the necessary instructions to facilitate the conduct of elections, and naming the heads and members of the electoral centers committees), article (6<sup>th</sup> bis) which states ((First: The Independent High Electoral Commission replaces the High Commission for the Elections of the Kurdistan Parliament - Iraq contained in this law to supervise and manage the parliamentary elections in accordance with the provisions of paragraph 4 of article 2 of the High Electoral Commission Law No. 11 of 2007 until the formation of the Independent High Commission for Elections and Referendum in Kurdistan - Iraq. Fourth: A judicial panel in the Kurdistan Region Court of Cassation - Iraq shall be composed of three part-time judges to hear appeals referred to it by the Election Commission or individuals or entities affected by the Commission's decisions, and its decisions shall be final. Article (7<sup>th</sup>), which stipulates that (the Independent High Commission supervising the elections of the Kurdistan Parliament - Iraq may determine the manner and manner in which it supervises the elections within the administrative units and the formation of electoral center committees), Article (9<sup>th</sup>), which

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states that (the Kurdistan Region - Iraq is considered a single electoral area and is divided into electoral centers), and Article (seventeen), which was repealed by the Seventh Amendment Law No. (15) of 2013, which read (The Civil Status Department provides every citizen who has completed eighteen years of age with a voter card according to the formula, the descriptions and shape of which are determined by a statement from the Supreme Authority, provided that the voter presents proof of his identity when voting), Article (twenty-two), which stipulates ((1. Each political entity in Kurdistan - Iraq shall submit its own list that includes the names of its candidates throughout Kurdistan-Iraq containing a percentage of not less than (30%) of women, and the names of the candidates are arranged in a way that ensures the representation of the said percentage of women in parliament, provided that the number of candidates in each electoral list is not less than three)), and Article (thirty-sixth), which states ((First: The electoral rate shall be determined according to the following mechanism: 1. The total valid votes cast for the components referred to in Article (36 bis) of this Law shall be divided by the number of seats allocated to each component to extract its electoral average. 2. The remaining votes shall be divided by the number of seats in Parliament after subtracting the number of seats referred to in (1) above, in order to extract the electoral average for entities not covered by the provisions of Article (36 bis) of this Law, and Article (thirty-sixth bis), which stipulates ((First: Five seats shall be allocated (for Chaldean Syriac-Assyrian) to be contested by the candidates of the said component. Second: Five seats shall be allocated to Turkmens to compete for the candidates of the aforementioned component. Third: One seat shall be reserved for Armenians to compete for the candidates of the said component.)) And Article (fifty-sixth), which

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states that (Parliament shall exercise the following functions and powers: 2. Approving agreements, deciding on fateful issues for the people of Iraqi Kurdistan, and determining the legal relationship with the central authority), Article (fifty-eighth), which stipulates (the Iraqi Independent High Electoral Commission shall replace the High Commission for the Elections of the Kurdistan Parliament - Iraq contained in this law to supervise and manage the elections of the second electoral cycle of the parliament), the Federal Supreme Court finds the following:

First: The authorities of the region have the right to exercise legislative, executive and judicial powers, in accordance with the provisions of the Constitution, with the exception of the exclusive competencies of the federal authorities, based on the provisions of Article (121/1<sup>st</sup>) of the Constitution of the Republic of Iraq of 2005, and that this right is guaranteed within the framework that the Republic of Iraq is one independent federal state, and the system of government in it is a republican, representative, parliamentary and democratic, in accordance with Article (1) of the Constitution, and that the democratic system in Iraq is based on the following foundations ((that the people are the source of the authorities and their legitimacy), It shall be exercised by direct universal secret ballot and through its constitutional institutions, in accordance with the provisions of Article (5) of the Constitution) and on the principle of ((peaceful rotation of power, through the democratic means provided for in the Constitution, in accordance with the provisions of Article 6 thereof)), and the obligation to provide all guarantees that enable all citizens, men and women, the right to participate in public affairs and to enjoy political rights, including the right to vote, vote and be elected, in accordance with the provisions of Article 20 of the

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Constitution, the democratic system in Iraq is also based on the freedom to establish or join associations and political parties, and no one may be forced to join any party, association or political body, or be forced to continue to be a member thereof on the basis of the provisions of Article (39/1<sup>st</sup> and 2<sup>nd</sup>) of the Constitution, It is not permissible to restrict or limit the exercise of any of the rights and freedoms contained in the Constitution except by law or based on it, provided that such limitation and restriction does not affect the essence of the right or freedom based on the provisions of Article (46) of the Constitution, so the basis of the democratic process in Iraq is based on the achievement of the principle of peaceful deliberation, and that this is achieved through the application of the principle of periodic elections, in a way that ensures the application of the democratic system in its correct form and not just legal texts in order to reach the democracy of the people and not the democracy of the ruling authority. Second, the aim of the principles contained in the constitution is to establish the basic rules for the way the state is organized and its government is formed, the fundamental rights to be implemented, the basic principles that guide and guide the electoral system, the rights of citizens to exercise democracy and the role of political parties and electoral authorities. The electoral law is the basis for real parliamentary representation that expresses the spirit and values of the constitution in force, if the right means are available to achieve proper parliamentary representation, the political and legislative process will be advanced and successful, considering that the House of Representatives, as the true representative of the will of the people and competent to legislate laws and monitor the performance of the executive authority, which is the womb from which the executive authority is born, must be a true expression of the

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will of the people, as well as must be taken into account when legislating any electoral law to the extent to which the constitutional requirement to represent the will of the people through that law. In addition, the electoral legal system is one of the most important elements of conducting the electoral process, as the aforementioned system includes the constitution, the electoral law, which includes the type of electoral system and laws related to elections, such as political parties laws, the law on the replacement of members, the law of the Independent High Electoral Commission and others, and that all of this must be for a basic, constitutional and national goal, which is to hold more fair, fair and more participatory elections, and then establish state institutions according to constitutional and legal frameworks. Third: The political system in Iraq is based on party pluralism based on the provisions of Article (39/1<sup>st</sup>) of the Constitution, which stipulates (the freedom to establish or join associations and political parties, guaranteed, and this is regulated by law), and that this pluralism mainly aims towards deepening democracy and establishing its foundations in a real way and not only theoretically, and this is within the framework of Article (20) of the Constitution of the Republic of Iraq for the year 2005, which stipulates (citizens, men and women, the right to participate in public affairs, and enjoy political rights, including the right to vote, elect and stand for election) and considering that the right to vote, vote and to be elected as a fundamental entry point and basis for democracy, thus, the Constitution guarantees it to ensure that everyone enjoys political rights and their participation in public affairs and the administration of the country, and that party pluralism carries with it an organization in which opinions contradict or agree, contradict or converge, but the national interest remains a framework for it and a criterion for its

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evaluation and a control for its activity, an interest that the people as a whole achieve, and therefore multiparty must not be a means adopted by the constitutional legislator to replace the control of one regime with another, especially since the Iraqi people have been under the domination of tyrannical individual rule for a long period of Time has had great negative effects on the rights of the people and on the status of Iraq locally and internationally and on state-building, so multiparty was the basis for building the system of government in Iraq from a constitutional point of view, considering that this pluralism is a strong path to national action through the democracy of dialogue, with which opinions vary and vary, provided that the role played by political parties remains ultimately linked to the will of the electorate in its various groupings, a will that crystallizes it through its free choice of its representatives in the parliaments, and through the weight it gives with its votes to those competing for its seats, so the goal pursued by these parties, in light of their electoral programs, must be a noble national goal and an interest based on interest. The supreme goal of the people and the homeland is to achieve the principle of peaceful rotation of power, fair distribution of wealth, the principle of equal opportunities for all, and the exclusion of the political and democratic process from sectarian, national or political quotas, because the principle of democracy is based on the rule of the people themselves away from authoritarianism and injustice of others, far from infringing on the political, economic, social and cultural rights of the people, if democratic systems do not lead to the realization of the principle of peaceful rotation of power in a real way, they are the democracy of the ruling political system, not the democracy of the people. At the same time, it is a democracy that digests the rights of the people, not a democracy of preserving those rights and

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communicating them to their rightful owners. Guaranteeing the right to vote, vote and be elected constitutionally requires the exercise of those rights by the people in all its sects and components without discrimination in the basis of their exercise of those rights. There is no preference for some citizens over others in any matter related to those rights to ensure that national action remains collective without privilege for some citizens over others. Through these concerted efforts in building national action, parties work in cooperation with non-affiliated parties in laying its foundations, all this is given that the sovereignty of the law and the people is the source of powers and their legitimacy is exercised by direct universal secret ballot and through its constitutional institutions in accordance with the provisions of Article (5) of the Constitution, and this must lead to the fact that whoever administers the country, whether at the federal or regional level or with regard to the governorates that are not organized in a region, represents the sovereignty of the entire Iraqi people with regard to the Council of Representatives and the popular sovereignty of the people of the region or the people of the governorates that are not incorporated into a region, it leads to the elimination of the control of one group over another, and in all this lies the value of party pluralism as a constitutional envisage towards deepening the concept of democracy, which does not give political parties a role in national action beyond the limits of the confidence that the electorate places on its candidates who compete with others on objective grounds that are not limited by doctrine of any kind, nor are they restricted by a form of affiliation, whether political or non-political, this is confirmed by the fact that the Constitution does not stipulate that citizens are obliged to join political parties, or that political rights in particular are restricted to vote, elect and be nominated by the necessity of party

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affiliation, as it is stated in item (second) of Article (39) of the Constitution (No one may be forced to join any party, association or political body, or be forced to continue to be a member of it). All candidates must be treated the same law, on the basis that equal opportunities for all without any discrimination based on partisan character, in which case discrimination is based on different political opinions, which is constitutionally prohibited, it is not right for the party system to turn against the public freedoms and rights that derive from it, as sovereignty belongs to the people and not to this or that party party, so equality must be the basis from which to enter the democratic process. Fourth: The integrity of the electoral process is mainly based on the electoral law that regulates the electoral process in its various stages, and elections in the modern era are one of the most important legal means used by individuals and political parties to reach power, so they need legal regulation represented in constitutional legislation and legislation of laws related to elections and regulations and instructions that regulate the electoral process, as the right to vote was not only regulated by internal legislation, as the rules of international law included clear texts that are considered Election is a sacred right that cannot be encroached upon, Article 21 of the Universal Declaration of Human Rights of 1948 stipulates that every citizen has the right to contribute to the administration of his country through freely and directly elected representatives, while the third paragraph of the same article considers the will of the people to be the source of all national authorities. Its legitimacy in case of violation of the legal rules governing it, Article 25 of the International Covenant on Civil and Political Rights of 1966 stipulates that "Every citizen, without any of the distinctions mentioned in article 2, shall have the following rights, which he shall have the opportunity to

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enjoy without unreasonable restrictions; (a) To participate in the conduct of public affairs either directly or through freely chosen representatives; (beh) To be elected and elected in genuine periodic elections by universal and equal suffrage and by secret ballot; The European Convention on Human Rights of 1950 affirms these rights, as Article 3 of Protocol 1<sup>st</sup> affirms that "the Contracting Political Parties undertake to hold elections at reasonable intervals based on secret ballot that guarantees freedom of expression in the selection of their legislative powers." For the foregoing, the existence of a single law that deals with all electoral activities and processes makes the process of referring to it easier, while the existence of different laws within the legal framework of elections to address multiple aspects of elections in detail provides ease and clarity of how to address election activities, but this needs more time and the need to verify that there is no conflict between different laws, and electoral legislation, like the various branches of law, is based on specific sources that represent a set of legal rules that regulate the electoral process. Starting from the division of electoral districts through the registration of voters, candidates, voter conditions, candidate and electoral campaigning, and everything related to voting, termination of membership, announcement and ratification of results, and the completion of electoral procedures, including the legislation of the electoral law, is not enough without relying on international electoral standards. Fifth: The strength of democracy is the participation of the people in the conduct of public life, and in the management of its public affairs, and respect for public rights and freedoms, and that elections are the best expression of democracy, and through which the exercise of the people's sovereignty through their representatives is achieved, and as a source of all powers, and from which state institutions derive their

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constitutional legitimacy, so parliamentary democracy is the highest form of the democratic system, but it does not gain this value unless it is accompanied by the existence of an electoral system that guarantees individuals full representation in parliaments, and since democracy has become a common human heritage based on appealing to the people by electing representatives to express their hopes and aspirations, as it has become imperative for countries that have chosen parliamentary democracy as a system of government to apply an electoral system that derives its principles and values from this human heritage described as justice and equality, the fact that the democratic system is based in its application on the legitimacy of the electoral process and its efficiency in representing the will of the people depends mainly on the good choice of the appropriate method for the division of electoral districts, which requires the legislator to have familiarized himself with the general concepts presented by jurisprudence, the judiciary and legislators in comparative legal systems about electoral districts and the nature of the principles adopted in their organization in order to derive the best and most appropriate system for its political and social reality, the issue of determining electoral districts is one of the procedures that precede the electoral process, and it has its special importance in knowing the number of members of the parliament, and knowing the number of voters in each district so that the process is completed easily and accurately. The electoral district is a part of the territory of the State within which the electoral process is exercised so that its population can be represented in the parliaments with a number of seats commensurate with their number, as the electoral districts are the spatial framework for voters and candidates to exercise their political rights, for voters, it represents the spatial framework for exercising

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their right to vote to express their opinions and political orientations, and for candidates, it represents the spatial framework for promoting their electoral campaigns, programs, and practicing the activities and events they deem necessary to win the seats allocated to that constituency within what is permitted by law, so the electoral district represents an important and distinct place in democratic construction, because of its great impact on the chances of candidates and political and social forces to participate in the electoral process, which may be reflected on the legitimacy of the elections and their results. This can produce a state of insecurity and stability, considering that the electoral districts are a stand-alone electoral unit in which the individuals registered in their electoral tables elects one or more representatives in the parliament, and the electoral district represents the first station, the most important of them is to reach power, as the parties and political forces competing in the elections draw their attention to the nature of the electoral districts and their electoral weight in them, and in light of this they organize their electoral campaigns, and the nature of the programs they submit, and the manipulation of the division of electoral districts greatly affects the results of the elections, and the electoral districts are comprehensive, meaning that the electoral districts are comprehensive for the entire territory of the state, whether the single-district system or the multi-district system is adopted, in all cases the entire territory of the state is subject to the division process and cannot excluding any part of it, because this is related to the legitimacy and fairness of the electoral process, and this characteristic derives its basis from the principle of equality on which elections are based, as it guarantees everyone the right to participate in public affairs without discrimination, electoral districts are also characterized by generality, that is, they do not

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belong to a specific sect or political party per se, but rather they aim to facilitate the voting process for all voters without discrimination and ensure fair competition for candidates based on equality and equal opportunities, and electoral districts are also characterized by their ability to modify and change in a way that makes them able to accommodate all the changes that may occur in the political reality or the number of population. The concept of one constituency is based on the fact that the entire territory of the state is a single electoral district, this constituency represents all the seats of the House of Representatives to be elected and in which all those registered in the electoral registers vote freely for any candidate, and therefore one electoral district means that each voter can vote for any of the candidates for membership of the Council, even if he is from outside his city, and each candidate may extend his campaign activity to any place within the country where he sees that he has electoral weight, although the single-district system contributes to strengthening national unity because it compels candidates to adopt projects and programs that concern the affairs of the entire country, on the other hand, it is characterized by a weak link between voters and the candidate, and the loyalty of candidates will be to their parties that nominate and support them during the electoral process, which makes their will dependent on the orientations and decisions of their parties and the necessity of ensuring the funding required by electoral campaigns in light of the single-constituency system was adopted under the 2005 National Assembly elections, under Article 3 of Section 3<sup>rd</sup> of the Coalition Provisional Authority Order No. 96 of 2004, Iraq was considered a single electoral district, so that voting must be equal for voters and candidates, the equality established in this context must be legal and realistic equality, and since each

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governorate of the region has its requirements and according to the circumstances it is going through and has its goals that it seeks to achieve through its representative in the region's parliament, and since this is not achieved with the region being considered a single electoral district to elect the regional parliament and lacks the achievement of the principle of equality for all governorates, which must be achieved according to their population proportions, and therefore following the single-district system of the region from It would lead to the non-representation of all the governorates that make up the region fairly according to their population proportions in the region's parliament, which leads to a violation of the principle of equality and lack of equal opportunities for all, so what was stated in Article 4<sup>th</sup> of the Third Amendment No. (47) of 2004, which includes the abolition of Article 9<sup>th</sup>, which stipulated (Iraqi Kurdistan is divided into electoral areas provided that they are not less than four regions) and replaced by the following text (The Kurdistan Region - Iraq is an electoral area single, divided into polling stations) contrary to the Constitution, this stipulates the unconstitutionality of Article 4<sup>th</sup> of the Third Amendment No. (47) of 2004, and the reinstatement of the aforementioned original text, whereas the Independent High Electoral Commission is competent to develop the regulations and instructions adopted in federal, regional and local elections and referendums throughout Iraq to ensure their fair and impartial implementation as an independent and impartial body with legal personality, with financial and administrative independence based on the provisions of Article (1/1<sup>st</sup>) of the amended Independent High Electoral Commission Law No. (31) of 2019, the Board of Commissioners within the Commission has the exclusive authority to resolve disputes arising from the preparation and implementation of national elections at the

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regional or governorate level in accordance with the provisions of Article (18/2<sup>nd</sup>) of the above law, and appeals from the Board of Commissioners or appeals submitted by the person affected by the decisions of the Council are referred directly to the judicial body formed in the Supreme Judicial Council based on the provisions of Article (19) of the same law, and the decisions of the Judicial Authority for Elections are final based on item (third) of the same article, the Commission may also seek the assistance of experts from the United Nations Electoral Assistance Office in the stages of preparation, preparation and conduct of elections and referendums in accordance with the provisions of Article (21) of the above-mentioned law, as this would lead to overcoming all obstacles that accompany the conduct of the electoral process by reviewing international experiences in this field through the electoral assistance desk, and also leads to guidance from international and regional electoral standards in order to hold free and fair elections whose results are assured by the voter. In order to ensure greater transparency and in line with the reform orientations required to build democratic institutions in their proper form, and to consolidate democratic principles in a way that guarantees the credibility of the electoral process and greater participation, and to achieve the goal of the people to establish a parliament that is truly representative of the people, and to give birth to a government that gains the confidence of the elected assembly, and to ensure that all institutions work to serve the people, achieve their goals, and reach the democracy of the people, not the democracy of the party or the authority, whereas the Independent High Electoral Commission, under Article (1/1<sup>s</sup>) of Law No. (31) of 2019, has the authority to take the necessary measures to divide the region into four electoral regions, as the representative of the Independent High

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Electoral Commission clarified under its list submitted on 21/1/2024 the possibility of this, and that the Kurdistan Regional Parliament had previously issued Law No. (1) of 2015 the Law of Administration of Halabcha Governorate in the Kurdistan Region - Iraq, and under the said law, the Halabcha region is considered a governorate in the region Based on the provisions of Article (1) of the same law, Article (2/1<sup>st</sup>) of the aforementioned law has specified for the Governorate of Halabcha a special council whose number of members does not exceed (25) (twenty-five) members, the Governor of Halabcha is appointed by a regional decree based on the provisions of Article (7/1<sup>st</sup>) of the law, as the city of Halabcha was in the elections of the Iraqi Council of Representatives that took place on 10/10/2021 as an electoral district of Sulaymaniyah Governorate, and based on all that, and since the regional authorities have the right to exercise legislative, executive and judicial powers in accordance with the provisions of the Constitution of the Republic of Iraq for the year 2005, with the exception of the exclusive competencies of the federal authorities based on the provisions of Article (121/1<sup>st</sup>) of the Constitution, therefore, the Independent High Electoral Commission has full authority to issue instructions for the drawing of electoral areas and the distribution of electoral seats according to objective bases in a way that ensures justice and equality, and in a way that leads to free and fair elections, and on the other hand, the electoral process is an integrated process in all its technical and administrative aspects, which requires that the Independent High Electoral Commission have sufficient time to conduct it, as Law No. (34) of 2023 has already enacted the First Amendment Law to the Independent High Electoral Commission Law No. (31) For the year 2019, which includes in Article (1) thereof, the text of item (first) of Article (7) shall be

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repealed and replaced by the following: First: The term of office of the members of the Board of Commissioners for the current session (54) shall be fifty-four months starting from 7/1/2020, during this period, the Independent High Electoral Commission (IHEC) shall complete the process of elections for the governorates councils that are not organized in the region and the elections of the Kurdistan Region of Iraq for the sixth session, and the federal government is committed to providing the necessary financial allocations to meet the requirements for holding the above-mentioned elections)). Sixth: In 1991, the central government withdrew its administrations and institutions from Iraqi Kurdistan and abandoned its administration, at that time an administrative and legal vacuum occurred, ignoring respect for the rights and freedoms prescribed by international documents and norms and violating the most basic recognized human values, which put the Kurdistan Front negotiating with it in a complex situation and a difficult test, which forced the Kurdistan Front to face that difficult situation to organize the affairs of the region and protect the foundations of society of security, rights, money and freedoms, and the establishment of the rule of law and justice through the mediation of its representatives and the selection of his representative in assuming governance and administration, and since democracy is the rule of the people of the people and its management through representatives chosen by complete freedom, and delegated all powers to establish the rule of law and the requirements of the interest of the people of Kurdistan The political leadership of the Kurdistan Front enacted on 8/4/1992 the law of election of the National Council of Kurdistan - Iraq, according to which the elections were held General Assembly in Kurdistan on 19/5/1992 to elect the representatives of the people of Kurdistan, many amendments were made to the law, the

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latest of which was the Seventh Amendment Law No. (15) of 2013 on 19/6/2013, and since what was stated in Article (thirty-sixth bis), which stipulated ((First: Five seats are allocated (for the Assyrian Syriac Chaldeans) to be competed by the candidates of the aforementioned component. Second: Five seats are allocated to the Turkmens to compete for the candidates of the aforementioned component. Third: One seat shall be allocated to Armenians to compete for the candidates of the aforementioned component)) of Law No. (1) of 1992 The Kurdistan Parliament Election Law - Iraq contradicts the principles of equality stipulated Article (14) of the Constitution, It contradicts the principle of equal opportunities according to Article (16) of the Constitution, especially since the above article included a fourth item that included (the candidates of each component are elected by voters from the mentioned components), where the aforementioned item was canceled under Article (3) of Law No. (5) of 2009, the Fifth Amendment Law to the Kurdistan Parliament Election Law - Iraq, where Article (3) of the amendment stipulated that ((Paragraph (Fourth) of Article Thirty-Six (repeated) of the law shall be repealed)) which requires The ruling of unconstitutionality of Article (thirty-sixth bis) requires the ruling on the unconstitutionality of the phrase (and eleven members) of Article (I) of the Kurdistan Parliament Election Law - Iraq No. (1) of 1992, and that what was stated in the sentence ((under the provisions of paragraph (4) of Article (2) of the Independent High Electoral Commission Law No. (11) Of 2007 until the formation of the Independent High Commission for Elections and Referendum in Iraqi Kurdistan)) of item (first) of Article (Sixth bis) is inconsistent with the first sentence of the said item, which included (The Independent High Electoral Commission replaces the High Commission for the

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Elections of the Kurdistan Parliament - Iraq contained in this law to supervise and manage the parliamentary elections), as the law currently in force for the work of the Commission is Law No. (31) of 2019, and not the repealed Law No. (11) of 2007, which requires ruling the unconstitutionality of the last sentence of item (first) of Article (Sixth bis) of the law, in addition to replacing the High Electoral Commission for the Kurdistan Parliament - Iraq to supervise. On the elections of Parliament, as Article (seventeen) of the law, which states (The Civil Status Department provides every citizen who has completed eighteen years of age with a voter card according to the formula whose descriptions and form are determined by a statement from the Supreme Authority, provided that the voter shows proof of his identity when voting.) Repealed by Article (3) of the Seventh Amendment No. (15) of 2013, and since the origin of the article is consistent with the provisions of Article (20) of the Constitution of the Republic of Iraq for the year 2005, which affirms that all citizens, men and women, must enjoy the right to participate in public affairs and enjoy rights including the right to vote, vote and be nominated, and this requires to judge by the unconstitutionality of Article (3) of the Seventh Amendment No. (15) Of 2013, and the reinstatement of the original Article (seventeen), and the phrase (the scope of Iraqi Kurdistan) contained in Article (twenty-two) contradicts the consideration of the Kurdistan Region as several electoral areas, and contradicts the provisions of Articles (14 and 20) of the Constitution, which requires ruling unconstitutional, as well as the case for the phrase (provided that the number of candidates in each electoral list is not less than three), whereas the Independent High Electoral Commission, as one of the independent federal constitutional institutions based on the provisions of Article (102) of

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the Constitution, which requires ruling the unconstitutionality of the articles, clauses or sentences of those articles and items contained in Law No. (1) of 1992 the Kurdistan Parliament Election Law of Iraq - the subject of the challenge of unconstitutionality, and therefore its conflict with the provisions of the Independent High Electoral Commission Law No. (31) of 2019, and that this conflict prevents the holding of elections for the Kurdistan Regional Parliament of Iraq, which requires judgment. It is also ruled unconstitutional because it conflicts with the provisions of articles 2 (2 / I - b, c) and (14, 16, 20 and 102) of the Constitution of the Republic of Iraq for the year 2005, and the ruling of its unconstitutionality leads to the harmony of the articles of the latter law with the Constitution and with the law of the Independent High Electoral Commission, and for the foregoing the Federal Supreme Court decided the following:

First: The unconstitutionality of the phrase (eleven) contained in the first article of the Iraqi Kurdistan Parliament Election Law No. (1) of 1992, as amended, so that the text becomes as follows (The Kurdistan Parliament of Iraq consists of one hundred members).

Second: The unconstitutionality of the phrase ((under the provisions of paragraph (4) of Article (2) of the Independent High Electoral Commission Law No. (11) of 2007, until the formation of the Independent High Commission for Elections and Referendum for Iraqi Kurdistan)) contained in Article (Sixth bis /first) of the Kurdistan Parliament Election Law No. (1) of 1992, as amended, to become the text as follows: (First: The Independent High Electoral Commission shall replace the Supreme Commission for the Elections of the Kurdistan Parliament of Iraq contained in this law to supervise and manage the parliamentary elections), and the lack of Constitutionality (item IV) of Article (VI bis).

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Third: The unconstitutionality of Article (IX) of the Kurdistan Parliament Election Law No. (1) Of 1992, as amended, and the entry into force of the previous text that was canceled under Article (Fourth) of the Third Amendment No. (47) Of 2004 to be the effective text (Iraqi Kurdistan is divided into electoral areas provided that they are not less than four regions).

Fourth: The unconstitutionality of Article (3<sup>rd</sup>) of Law No. (15) of 2013, the Seventh Amendment Law to the Election Law of the Kurdistan Parliament of Iraq No. (1) of 1992, as amended, according to which Article (Seventeen) of the aforementioned law was canceled and the aforementioned article returned to work, which stipulates (The Civil Status Department shall provide every citizen who has completed eighteen years of age with a voter card according to a formula whose descriptions and shape are determined by the statement of the Supreme Authority, provided that the voter presents proof of his identity when voting).

Fifth: The unconstitutionality of the phrase (throughout Iraqi Kurdistan) and the phrase (provided that the number of candidates in each electoral list is not less than three) contained in Article (twenty-second / 1) of the Kurdistan Parliament Election Law No. (1) of 1992, as amended, to become the text as follows (1- Each political entity in Iraqi Kurdistan shall submit its own list that includes the names of its candidates containing at least 30% of women, and the names of the candidates shall be arranged in a way that ensures the representation of the said percentage of women. in Parliament).

Sixth: The unconstitutionality of Articles (Six) and (Seventh), Clause (First/1 and 2) of Article (Thirty-Six) and (Thirty-sixth bis), Paragraph (2) of Article (Fifty-Six) and (Fifty-eighth) from the Kurdistan Parliament Election Law No. (1) Of 1992, as amended.

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Seventh: Dismissal of the plaintiffs' lawsuit regarding the challenge to the rest of the other articles of the Kurdistan Parliament Election Law No. (1) Of 1992, as amended.

Eighth: Dismissing the plaintiffs' lawsuit on behalf of the defendants, the President of the Kurdistan Region and the Prime Minister of the Kurdistan Regional Government / being in their capacity, because the litigation is not directed.

Ninth: Charging the parties with the relative expenses and fees, and charging each party the attorney's fees of the other party's attorney, an amount of one hundred thousand dinars distributed in accordance with the law.

The decision has been issued with majority, final, and binding for all authorities according to the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and Articles (4 and 5/2<sup>nd</sup>) of the FSC's law No. (30) For 2005 which was amended by law No. (25) For 2021. The decision has been edited on the session dated 10/Shaaban/1445 Hijri coinciding 21/February/2023 A.D.

**Judge**

**Jassim Mohammed Abboud**

**President of the Federal Supreme Court**

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