

Republic of Iraq
Federal Supreme Court
Ref. 84 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 16/7/2023 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul Rahman Suleiman, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Ziyad Jabbar Mohammed – his agent the barrister Hussein Fahim Hadi.

The Defendant: 1- Speaker of Kurdistan Region Parliament - Iraq/ being in this capacity.

2- President of the Independent High Commission for Elections and Referendum in Kurdistan Region – Iraq/ being in this capacity.

The Claim

The plaintiff claimed through his agent that the Kurdistan Regional Parliament legislated Law No. (4) of 2014 (Independent High Commission for Elections and Referendum Law) in the Kurdistan Region, which stipulates in Article (5th/1st/1) thereof: ((Article Five: The Commission consists of: First: Board of Commissioners: 1. Board of Commissioners: It consists of (9) nine members selected by Parliament by an absolute majority of its members after being nominated by a special committee formed by Parliament, provided that at least two members of the Council are jurists and that the representation of women and components shall be guaranteed, and the term of office of the Council shall be (5) five calendar years)), Article (7th/1st/ 1) stipulates

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(First- Membership in the Council ends for one of the following reasons:
1. The end of the Council's mandate), and since the members of the current Commission began their duties on 23/12/2014 and the mandate of the Commission expired nearly four years ago and the Kurdistan Regional Parliament was unable to form a new commission during its legal term, so and based on the provisions of Article (93/3rd) of the Constitution, the plaintiff requested this court to issue a state order to suspend the work of the Board of Commissioners as they had exceeded the legal period stipulated in the law of the Independent High Commission for Elections and Referendum in Articles (7th/1st/ 1 and 5th/1st) where the end date of their term is 23/12/2019 and the Council became after this date exercising its duties without a legal basis, and also requested a ruling on the illegality of the Board of Commissioners and the cancellation of the membership of its members due to the end of their term according to the legal period. The lawsuit was registered with this court in the number (84/federal/2023), and the legal fee was collected for it, and the defendants shall be informed 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, for the lapse of the period stipulated in Article (21/3rd) of the aforementioned Rules of Procedure of the Court, a date shall be set for the pleading and the parties shall be notified thereof, on the appointed day, the court was formed, and the plaintiff's agent attended, and the defendants did not appear despite notification following the law, the plaintiff's agent repeated his previous statements and requests, whereas the court ended its scrutinies, and nothing was left to be said, the end of the argument has been made clear and the court issued the following decision:

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The decision:

Upon scrutiny and deliberation by this court of the plaintiff's lawsuit (Ziad Jabbar Mohammed), it was found that he had filed this lawsuit as a dispute between the defendants, the Speaker of the Kurdistan Region Parliament - Iraq, and the President of the Independent High Electoral and Referendum Commission in the Kurdistan Region - Iraq, in addition to their jobs, requesting a ruling on the illegality of the Board of Commissioners in the Independent High Electoral and Referendum Commission in the Kurdistan Region - Iraq, and the cancellation of their membership due to the end of their mandate, and the defendants did not respond in addition to their functions despite the expiration of the period stipulated in Article (21/3rd) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, and after the court reviewed all the case documents, and law No. (4) of 2014 on the Law of the Independent High Electoral and Referendum Commission in the Kurdistan Region – Iraq, And its decision No. (84/Federal/State Order/2023) dated 8/5/2023 rejecting the plaintiff's request to issue a state order to suspend the work of the Board of Commissioners for the reasons stated therein; the Court finds that the plaintiff in his lawsuit has requested a ruling on the illegality of the Board of Commissioners in the said Commission based on the jurisdiction of the Court stipulated in Article (93/3rd) of the Constitution of the Republic of Iraq for the year 2005, and since the plaintiff requested a ruling on the illegitimacy of the Board of Commissioners and the cancellation of their membership due to the expiration of their mandate in accordance with the legal period, and that this is outside the competences of the Federal Supreme Court specified under Article (93) of the Constitution of the Republic of Iraq for the year 2005 and Article (4) of the Federal Supreme Court Law No. (30).

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of 2005 as amended by Law No. 25 of 2021, for all of the above, the Federal Supreme Court decided to dismiss the plaintiff's lawsuit (Ziad Jabbar Mohammed) and charge him fees and expenses. 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) 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 27/Dhul Hijja/1444 Hijri coinciding 16/July/2023 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court

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