

In the name of God most Gracious most Merciful

Republic of Iraq
Federal Supreme Court
Ref. 159/federal/2021



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 27. 12 .2021 headed by Judge Jasem Mohammad Abod and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali who are authorized to judge in the name of the people, they made the following decision:

The Plaintiff: Hadi Farhan Abdullah and Mohammed Jassim Hammoud and their lawyers Mohammed Majid al-Saadi and Ahmed Mazen Makiya.

The Defendant: The President of the Independent High Electoral Commission (IHEC) / being in his capacity and his two agents, human rights officials Ahmed Hassan Abdul and Rahim Nasser Ali.

The Claim:

The plaintiffs claimed through their agent that the elections of members of the Iraqi Parliament for the fifth parliamentary session had already been scheduled for 10/10/2021 before the constitutionally specified period based on article 56 of the Constitution, as these measures violated the constitutional provision of the article (19/6th) which provided (each individual has the right to be treated fairly in judicial and administrative proceedings). Since these elections have been marred by many irregularities committed by the defendant, which violated their

legitimacy as they are contrary to the law and contrary to the article (5) of the Iraqi Constitution, which stipulates (sovereignty of the law and the people are the sources of powers and their legitimacy is exercised by direct public secret ballot and through its constitutional institutions) represented by the (IHEC), and these irregularities have had the effect of losing the rights of the plaintiffs, contrary to the provisions of the Constitution under article (14) and violated the principle of (equal opportunities) Article (16) of it, based on the above, was formal, objective as well as technical: **1.** The High Commission has already announced the success of the second and third simulations, contrary to the final report no. (3) of the examining company, where it was stated in this report and according to page 7 of it that there was interference in the data that led to mismatches and Consistency in the data for the third electoral simulation, which required instructions to conduct a thorough clean-up of all previous data in the period (1_7 October / 2021) as stated in the report of the German company (hensoldt) This confirms and proves that the election results were manipulated by combining data from previous elections with recent data. **2.** The examining company confirmed in its final report No. (3) that it had followed (18) electoral sites from 7 a.m. until the scheduled closure at 6 p.m. and expressed it as a valid and legal procedure, which was only in the eighteen electoral sites while there are electoral sites that have violated these procedures planned by the Commission, where the closure was past 6 p.m. and recognized by the Commission itself and as stated on the page (8) of the Report issued by the aforementioned examining company. **3.** The report issued by the same examining company showed that there was a violation that allowed for manipulation and forgery, noting in its report that not all voter fingerprints were uploaded to the database before the election. Therefore, fingerprints cannot be matched to the treasury available in the database, the purpose of this standard has not resulted in the denial of voting to voters on election day and inevitably adversely affects the final result, as well as the denial of these votes to some blocs and independent candidates, as shown on page 8 of the company's above-

mentioned report. **4.** The examining company had previously submitted an official request in which it aims to obtain the final programs and their versions before the elections, according to what was stated in report No. (2.4) so that the examining company can compare and verify its implementation correctly and based on the official request via e-mail with the date (5, 7 and 9 October/2021) The Commission did not respond to this request, despite its legal importance, and has refrained from submitting these dependencies to the examining company, as stated on the page (9-10) of its report. **5.** The High Commission refrained from enabling the company to examine the results display device (1000c), as the examining company was not provided with the full working system or the desired environment for auditing, which made it impossible to review the final configuration or test the system before using it. **6.** Another violation mentioned by the inspecting company's report in (800 c), where the Commission did not inform the examining company of the digital representation scale for fingerprints and storage in which the Commission works to comply with and comply with it during the conduct of this audit. Therefore, it is difficult and impossible for the examining company to verify whether the current fingerprint format is compatible with any internationally accepted standard or not, as found in the aforementioned report on the page (18) of it. **7.** The examining company had previously made binding recommendations to the High Commission not to update programs and systems and freeze them at least (6) weeks before the elections, but the Commission had updated the software of the device for accelerating results and verification, and the examining company was not notified of that, and the program used with the counting device and the verification device was updated a day before One of the elections, and this violation is proven in the report of the examining company on the page (18) of it. **8.** There is also a violation committed by the defendant through the presence of communication devices in the verification device and it was deliberately activated, and that these devices are (3G/WIFI GBS/) defined and connected to the electoral box by cable, and that this is

considered a link connected to the ballot box during the election period, which allows the possibility of Accessing and hacking the fund electronically and manipulating the results, according to the report of the examining company in Table No. (8). **9.** The report issued by the examining company confirms that the Commission had accepted the mitigation of all threats involved in a particular threat, as the Commission justified that mitigation by making sufficient solutions on the system to mitigate the detected threats. As for the threats that were considered acceptable by the Commission represented by the gaps and risks involved This threat related to the possibility of manipulating the results, and this violation also had a great impact on the achieved results as evidenced in the report of the examining company on the page (24) of it, and that these threats accepted by the Commission will not be dealt with effectively as indicated in the report above and the table attached to the petition. **10.** The defendant violated the provisions of the law by not handing over to the agents of the political entities on the polling day the results tapes and photographs of the polling forms, and he also did not hand over the results tapes in full, and the copies and ballot papers were never delivered to any of the stations, in contravention of the law, which confirmed that in accordance with the It was stated in paragraph (7th of Article 38), which stipulates that (the process of sorting and counting is carried out using an electronic results accelerator device, and candidates' agents are provided with an electronic copy of the results and ballot papers at each polling station) to the possibility of tampering with the results. **11.** The High Commission has exposed the judiciary to embarrassment by violating its effective law that clarifies the provisions and procedures for appealing the election results, as it made a partial announcement of the results and opened the door for appeal, in violation of the law that requires that the appeal is against the total results approved by the Commission. **12.** The Commission has made a partial announcement to certain blocs by declaring their victory before the full counting and sorting process is completed and before the final announcement, and this matter obligated

the Commission not to retract these results and the possibility of a change in the validity of these results, whatever the evidence that proves the incorrectness of these results and when considering the appeals submitted by the candidates to ensure to everyone that they were on the preliminary results that were issued in the partial announcement of them. **13.** Statistics on invalid papers in different percentages exceeded the normal rates, reaching more than (nine hundred thousand papers), which means the possibility of deliberate invalidation for the benefit of one candidate at the expense of the other, and the validity of the invalidity of these papers and the possibility of technical error manually was not confirmed. **14.** The High Commission announced the decision of the Board of Commissioners No. (19) for the Ordinary Minute No. (41) on 10/20/2021 regarding the results of fingerprint matching, and it appeared that there was a matching number (3781) and this indicates that these voters had voted twice or more for one candidate Or more. Surprisingly, the decision included a request from the electoral administration to approach the Public Prosecution to take the appropriate legal action, and its procedures regarding the multiple votes did not indicate whether they were deleted or approved, and what mechanism was adopted.

15. The presence of violations recorded on many stations in multiple centers with the presence of a (systematic) suspension that necessitated the central sending of passwords by the commission. If we go back to the voting procedures, it confirms that the voting system has stopped in several cases, including First: Pull out or try to pull out the memory stick (USB) or SDRAM (the box). Second: Turn off the device. Third: Do not connect the cable, which means that these cases have occurred at these times, feeding the funds with information through the memory stick or SDRAM installed on the box, and the investigation, investigation, and verification of the conformity of the papers inside these boxes have not taken place. Passwords through a special program and centrally, but in front of this large number of suspended devices, which amounted to more than (3100) devices, they resorted to sending passwords to the

governorate offices afternoon to rush to cover the defect, and this is contrary because it is a tool for manipulation, especially if it occurred in the wrong hands. And all of the foregoing is supported by the official report issued by the examining company (Hensoldt) that there are so many violations that require canceling the results and repeating the elections. He must request the plaintiffs from the Federal Supreme Court to invite the defendant to plead after being notified of the content of the lawsuit petition and the ruling to cancel the election results as they violate the constitution and the law and to return them in accordance with what was stated in the constitution, laws, and instructions. Issuing a state order suspending the procedures for ratifying the election results until the case is resolved in accordance with the provisions of Article (151) of the Civil Procedure Code and charging the defendant with all fees, expenses, and attorney fees. The case was registered with this court in No. (159/federal/2021) and the legal fee was collected for it in accordance with the provisions of Article (1/3rd) of the FSC's internal system No. (1) of 2005, and the defendant was notified of its petition and documents in accordance with what was stated in Article (2/1st) of the same bylaw, he replied according to the letter numbered (kha/21/1710 dated 29/11/2021), which includes the following: **First:** The Constitution of the Republic of Iraq for the year 2005 specified in Article (93) of it the powers of the FSC, and these powers did not include the cancellation of the election results, as the case was focused on procedures issued by the Commission in accordance with the legal powers granted to it and that these procedures are outside the jurisdiction of the FSC. **Second:** The IHEC Law No. (31) of 2019 has drawn the legal way to challenge the decisions issued by the Board of Commissioners, as Article (18/1st) of it stipulates (The Board of Commissioners has the authority to decide on complaints submitted to it, and the Board of Commissioners refers criminal cases to the competent authorities, if there is evidence of misconduct related to the electoral process) as stipulated in Clause (Second) of the same article that (The Council has the exclusive authority to resolve disputes arising from

the preparation and implementation of national elections at the level of a region or at the level of governorates, and it may delegate the authority to the electoral administration To resolve disputes as they occur) and Article (19/1st) stipulates that: (The Supreme Judicial Council shall form a judicial body for elections, consisting of three part-time judges, none of whom is of a class of no less than the first class, to consider the appeals referred to it by the Board of Commissioners or submitted by the aggrieved by the decisions of the Council directly to the Judicial Commission for Elections) Article on (It is not permissible to appeal the decisions of the Board of Commissioners except before the judicial authority in matters related to the electoral process exclusively) , the third item also referred to (the decisions of the electoral judiciary are final) and by reviewing these legal texts, the authority competent to consider objections to the decisions issued by the Board of Commissioners is the electoral judiciary and it is not permissible to appeal to any other body. If there is an objection to any procedure or An action or omission, whether the person who committed the act or omission was an employee of the Commission, a political party, or a candidate, the body concerned with considering the objection is the Board of Commissioners through submitting an official complaint as long as the issue is related to the electoral process and any decision issued in that complaint or objection is subject to appeal before the Judicial Commission for Elections. Therefore, the Federal Supreme Court is not competent to consider this case as it relates to procedural and technical issues issued by the IHEC.

Third: The report on which the plaintiffs relied in their lawsuit is a special technical report that may not be circulated and adopted as evidence in the lawsuit based on Clause (12) of it, which states, ((Report No. (3) contains the same as all other audit reports submitted by HENSOLDT). Regarding this contract, it contains sensitive and detailed information about potential risks and weaknesses in the electoral system of the IHEC, and therefore the distribution of the report is restricted to prevent sensitive information from falling into the hands of malicious

actors)). **Fourth:** The answer to the paragraphs listed in the list of plaintiffs, according to the following: 1- the simulation process is a practical, realistic and hypothetical experiment that was carried out before Election Day to see the work of hardware and software. Electronic elections and that all the data that is used in the simulations before polling day are virtual and unreal data, in addition to the ballot papers used in the simulations are ballot papers for training and simulation that contain symbols completely different from the real papers, and these data were used in the simulation first, second and third, this data was not filtered during the simulations to compare among them, and after the completion of those operations and to ensure their success, all databases of devices and servers were cleaned in preparation for the polling day, and this was confirmed by the examining company in its report page (13) (to prevent the occurrence of inconsistencies between these data During the 2021 parliamentary elections, the IHEC carried out a cleaning process for the electoral system databases from October 1-7, 2021. The process of cleaning the entire system led to the transfer of all databases to an empty list and the removal of old data previously stored in those databases and systems. The use of a new (sd) card and memory units (USB) when interacting with the election management system to ensure that there is no data stored in it), in addition to the fact that external storage units (USB, SD) are used, whether they are completely different from what was used in the simulations. 2- It was not mentioned in the examining company report on page (8), and the plaintiffs also claim that the commission admitted exceeding the time of closing the machines after 6 pm on the polling day and that what was mentioned in the examining company report on the page (8) was that the procedures for opening and closing, transferring and matching the results were working, appropriately during both my events (private and public voting). Regarding the opening procedures: The automatic opening of the voting stations was working properly, as all the voting stations were opened at the specified time at 07:00, local time, and all the voting stations were open and ready to

receive the voters on time. As for closing procedures: the automatic closure of the voting stations was working correctly, as all voting stations were closed automatically, the time set at 06:00 pm local time, once the automatic closure was completed and this is what the examiner company indicated in its report (the staff of the Independent High Commission began For the elections in carrying out the end-of-day tasks and they closed the polling stations according to the schedule. No manual closing was observed, as planned and expected). Also, all polling stations were closed at 6:00 pm by closing all the self-verification devices at 6:00 pm, as no voter card could be received by the verification device, and therefore, ballot papers could not be entered into the electronic counting and sorting device after closing the verification device. Because the electronic counting and sorting device did not receive any ballot paper that did not pass through the verification device by sending the barcode of the ballot paper to the electronic counting and sorting device, and what was monitored and circulated in the media was the time of printing the results report and closing the electronic counting and sorting device, where a report The results after the process of matching the barcodes with technical procedures inside the station by calculating the papers outside the box with filling out paper forms and this requires time to complete inside the station. The commission entered into the selection of these sites, and this is part of their work that strengthens the technical opinion.

3- Elections Law No. (9) of 2020 authorized the use of two types of electronic cards, the first is a short (non-biometric) card, which was printed based on the data received from the Ministry of Commerce / the ration card, and accordingly, this type of card does not contain any fingerprints or Pictures or biometric data related to the voter, and to prevent voter tampering with this card by using it from someone other than its legal owner, voting on this card has been restricted by taking the ten fingerprints of the voter. All of them are on verification devices, but some biometrically registered voters have diseases that prevent their fingerprints from appearing on the verification kit, and procedures for the

voting process have been established through special procedures for the bypass process. 4- What the report included are parts, some related to threats, some related to procedures, and some to treatments, and then included conclusions and recommendations. She undertook the examination and audit process, and this was confirmed by the examining company that the Commission had provided it with all the programs in the fourth part of the report, page (12) (conclusions of the comprehensive audit). 5- Concerning the results display program (C 1000) and the servers attached to it, this program has been examined by the examining company and the company has confirmed that there is no defect or danger from its use, since this program does not work in a direct connection to the results database, but rather Relying on taking a copy of the files separately and be encrypted, and that the servers of this program are completely separate from the data center network. 6- The Commission, in coordination with the company, has approved (145) points of similarity in the intersection of voter fingerprints, bearing in mind that the international standard is from (0) to (1000) points, as what the Commission has adopted is part of the international standard, and what is stated in the plaintiffs' claim is not related to In the electoral process, it was a subsequent procedure that was carried out during the ten days that followed the polling day, according to what was stated in the election law, where the report indicated that there were more than 3,700 fingerprints similar. Giving the aggrieved candidate the right to appeal before the Judicial Commission for Elections. The programs have been updated at the request of the Commission according to the updated procedures and recommendations of the examiner company to address the waste identified by the company in its previous report. 7- The final version was examined by it under its report dated 7/10/2021 which states ((Hensoldt can confirm that we have not detected, unaddressed, threats or groups in the election system that would impede the voting process)). The software and systems checked by the examining company are the final versions that were used in the elections. 8- The report of the inspecting

company indicated in Table No. (8) that there was no signal from the (GPS) device in the verification kit, as it was completely disabled and the time is set manually to avoid penetration of the device via the Internet through the (GBS) system, as it was disabled and replaced by The work of the (GBS) by setting the time manually and with discreet and protected procedures. As for the (WF) and the (3G), they were disabled to prevent penetration and with the advice of the examining company as it poses a threat. This was compensated by linking the verification kit to the acceleration device, and this enhances the integrity of the electoral process. In the same table, the examiner's report confirmed that the device's databases cannot be tampered with because they are encrypted.

9- The main tasks of the company according to the contract are to identify threats, develop treatments and follow up their implementation. The report indicated that (168) threats the Commission and the company worked together to address and the treatments were classified as mitigating, meaning that this treatment is a successful treatment for this electoral event or any electoral event As for the partial treatment, it means that this treatment is successful in this electoral process, and the commission can use additional treatments in future electoral events since its implementation requires a period that exceeds at present the remaining time for the electoral event.

As for the treatments accepted by the commission, this means that the processing procedures taken by the commission, the examining company, and the supplying company are accepted by the commission and that they are confidential procedures if they are disclosed or disclosed, it exposes the electoral system to danger and threat, and this does not mean that it was not examined by the company, but rather The company examined that acceptable treatment and gave its opinion as stated in the report dated 7/10/2021 that there is no threat in the electoral system that has not been addressed (page 12). Therefore, the report issued by the examining company included threats and acceptance broadly without addressing the

details of the processing are confidential procedures and not suitable for publication, and this was indicated by the note at the end of page No. (11) of the report, which stated (Report No. (3), like all other reports submitted by (HENSOLDT) regarding this contract, contains sensitive information It details the risks and weaknesses adopted in the electoral system of the IHEC. Therefore, the distribution of the report is restricted to prevent sensitive information from falling into the hands of malicious actors. 10- The regulation and under this paragraph included clarification of the following matters:

A. The polling procedures indicated that the results reports were printed immediately after the end of the polling time, in several (10) copies, 3 of which were packed in secure bags according to the approved polling procedures, with a copy displayed on the station wall, and the remaining 6 copies were handed over to the party and candidate agents. **B.** With regard to the distribution of an electronic copy of the results and ballot papers, the Commission's procedures indicated that the electronic copy and copies of the ballot papers were delivered after receiving all the memory stick units from all stations in the National Office and assembling them on the basis of the electoral districts, and they were distributed to those who submitted an official request for that from the parties and candidates. **C.** Paragraph (7th) of Article (38) of the Iraqi Parliament Elections Law No. (9) of 2020 referred to providing candidate agents with an electronic copy of the results and copies of ballot papers at each of the paper stations and did not specify the time and date of providing them with them. Parties and candidates were provided with copies of these reports and copies of ballot papers. 11- Article (38) of the Elections Law No. (9) of 2020 obligated the commission to announce the preliminary results of electronic counting and sorting within (24) hours from the time of the end of voting, and on this basis and in compliance with this text, the commission announced the preliminary results of the stations whose data had been received. Through the transmission medium and the memory stick after the matching procedure, and since Article (38)

referred to above obligated the Commission to open one polling station in each of the 8,962 polling stations, the Commission worked to develop a mechanism through which the station to be opened is determined according to a lottery. The polling center is conducted in the national office and notified to the electoral offices an hour before the voting closes and ends. The commission has arranged, through its procedures, penalties to be taken against the director of the violating polling center if a station is opened other than the one specified by the lottery. On this basis, the announcement of the results of these stations requires more time to verify the authenticity of the station and fill in the forms for manual sorting and counting, such as the matching and settlement forms and settlement. On this basis, these results were later announced to complement the announced preliminary results. As for the stations whose results were not sent through the medium for technical reasons, the Commission, under the supervision of the United Nations, international organizations, international and local observers, and in front of media outlets screens, brought these stations with all their components, including equipment, ballot boxes, and packing boxes, to the manual counting and sorting center in Baghdad in The Hall of Honor (the Unknown Soldier), where it started printing the results reports and sending the results electronically, and the Commission announced these reports on the manual counting and sorting website and the Commission's website to be under everyone's attention, the extent of the Commission's commitment to applying the procedures and the law with integrity and impartiality. 12- The number of invalid papers is (721,000), which represents 8% of the percentage of voters. This percentage reflects the voter's will to invalidate the ballot paper in accordance with the criteria set by the Commission in accordance with its announced procedures that were not objected to at the time. The invalid papers were checked and ensured that the papers were invalid. Invalidity during the manual counting and sorting process based on the appeals and their appendices submitted to the Commission, which of course differs from the standards of electronic counting and sorting, as

the Commission adopted visual observation in checking the invalid papers and did not adhere to the electronic procedures of the results acceleration device through the working teams, supporting committees and the central committee that was formed for this purpose and in the presence of local and international observers and the UN team, so there were very few invalid papers found to be valid and counted for the candidates who were voted, according to the procedures of the Commission prepared for this purpose. As for the higher percentage of invalid papers, they were not counted because they were invalidated by the will of the voter during voting by placing more than one sign or leaving it blank. 13- The Commission has adopted a fingerprint matching system to monitor cases of repeat voting and for the success of this program. The number mentioned in the petition was monitored, which is a total number of all electoral stations, which numbered more than (57,000) stations, and the percentage criterion is less than 0.04%, and this percentage if What was compared to the number of voters who numbered (962,9601) is almost non-existent. However, the Commission took the procedures of referring them to the courts and gave the right to the candidate affected by this procedure to appeal before the judicial body. One of the international standards for elections is the secrecy of the voter, as there is no connection between the voter's vote and the candidate's vote who voted for this voter. 14- The Commission has been keen to improve its procedures to prevent any tampering that may occur in the electronic voting devices by turning off and operating the device or disconnecting the cable linking the two devices, as the devices stop working until a password is obtained centrally generated by the National Office and used only once. Concerning withdrawing the USB memory stick or the SD-RAM storage unit, the Commission's procedures do not allow this situation to happen at all, and if it occurs or attempts to do so, the device will stop working permanently and does not work even using a password, knowing that the location of the (USB) and (SD-RAM) is protected by a locked gate with a padlock and security tape. From the

foregoing, the plaintiff based his claim on the reports issued by the German examining company (HENSELT), arguing in his defenses on those reports that they were a reason for responding to his requests and a ruling to annul the election results, and that what was stated in the reports could not be a reason to cancel the election results, nor could they be defenses to prove The lack of integrity of the electoral process, as the nature of these reports is related to the contractual relationship between the IHEC, and (HENSELT) company. The contract concluded with the company was a legal obligation that they are bound by according to Article (38/3rd), which stipulates (the Commission must contract with a solid international company with expertise in technology and has similar work to check voting equipment software (results accelerator devices) and the devices attached to it, and the Board of Commissioners forms a committee from the technically competent governmental institutions to monitor and evaluate the aforementioned company and submit a report to that to the Iraqi Council of Representatives) and the legislator's goal in this is to check on the work of the devices and increase their sobriety and prevent tampering with the election results, which is an unambiguous goal, and everyone was in favor of that. If there were observations made by the company during the contract period and during the examination process, this does not mean that those observations were not fixed or processed, which is the desired goal of the work of the examining company, and that the plaintiff in his list focused on the observations The company during the period of testing the devices and the simulation process, and all these observations were addressed, and this is what the company presented in its final report, which the plaintiff did not refer to in his lawsuit no threats or a group in the election system that has not been processed and that would impede the voting process) as well as what was stated in its final report on page (12) which indicated in Part fourth (Comprehensive Report Conclusions) that (Honesoldt can confirm that additional technical and material security measures And the procedures for each of the electoral system and the operations of the

IHEC and its procedures that were established during the course of this audit led to the creation of a safer electoral system during the first and second stages of the audit. Vulnerabilities in electoral systems, assets, users, networks, hardware, software, physical security, or related procedures to be used in the 2021 Parliamentary Elections The IHEC acted quickly and effectively to mitigate these findings and successfully addressed all (168) findings result before the start of the 2021 parliamentary elections). . From the foregoing and for what the court deems of the reasons for the defendant's request to dismiss the case and to charge the plaintiffs with expenses. After completing the procedures in accordance with the provisions of the aforementioned internal system, a date was set for the pleading, and the two parties were informed of it according to what was stated in Article (2/2nd) of the same system above. On the appointed day, the court was formed, so the first plaintiff attended, and the lawyer, Muhammad Majeed Al-Saadi, represented the plaintiffs, and he attended on behalf of the plaintiff. His two attorneys, the legal officials, Ahmed Hassan Abd and Rahim Nasser Ali and Busher, had to conduct the public pleading. The first plaintiff and the plaintiff's attorney repeated the lawsuit's petition and requested a ruling according to which the defendant's attorneys replied that they were repeating what was stated in the reply list submitted to the court on 29/11/2021 and requesting the dismissal of the lawsuit for the reasons stated In it, the attorneys of each party repeated its previous statements and requests, and since there is nothing left to be said, the end of the pleading has been made clear, and the court issued the following ruling:

The Decision:

After scrutiny and deliberation by the FSC, it was found that the plaintiffs requested to invite the defendant, the head of the IHEC, in addition to his position to plead and rule to cancel the results of the general elections for membership of the Iraqi Council of Representatives for the year 2021 for the reasons stated in the petition and the regulations submitted by them and in their statements and the statements of their attorneys during the procedure Pleading and issuing a state order to stop the procedures for ratifying the election results until the case is settled in accordance with the provisions of Article (151) of the Civil Procedure Law No. (83) of 1969, as amended, and the defendant's attorney/ being in his capacity requested to dismiss the case for the reasons mentioned in the regulations submitted by them and the reasons contained in their statements while conducting the pleadings, came to the following conclusions: **1.** 1. The Constitution of the Republic of Iraq for the year 2005, in Article (1) thereof, defines the system of government as (a representative, parliamentary, democratic republic) based on the principle of the peaceful transfer of power through democratic means stipulated in the Constitution based on the provisions of Article (6) thereof, which stipulates that (the transfer of power peacefully, through democratic means stipulated in this Constitution.) Considering that sovereignty is the law and the people are the source of the authorities and their legitimacy is exercised by direct public secret suffrage and through its constitutional institutions in accordance with what was stated in Article (5) of the Constitution, which stipulates (the sovereignty of the law, and the people is a source powers and their legitimacy, exercised by direct secret public suffrage and through its constitutional institutions) Therefore, this court finds that democracy is a living and developing political concept that affects the societies in which it is practiced, and the values, culture and interests of society affect its content. Democracy means that it is a system of governance and a peaceful platform for managing differences of

opinion and conflict of interests. The application of its concept is based on two foundations, the first is parliamentary representation, and the second is the separation of powers, and this requires the presence of multiple political parties competing with each other to occupy the majority of parliamentary seats and then forming the government according to what it possesses of a truly national vision away from personal interests and the self-interests of those parties. The most important criterion for a democratic system is the peaceful transfer of power, and that requires appealing to the opinion of the majority and respecting the opinion of the minority. The source of all of this is the regular, periodic, secret public suffrage that takes place at certain times. This requires the existence of free and fair elections as the most important means through which the building of A democratic political system is in accordance with the constitution. **2.** The IHEC was formed based on the provisions of Article (102) of the Constitution of the Republic of Iraq for the year 2005, which stipulates that (the High Commission for Human Rights, the IHEC, and the Integrity Commission are independent bodies, subject to the oversight of the Council of Representatives, and their work is regulated by law.) The Electoral Commission is responsible for organizing and implementing all types of elections and referendums, all federal and local, based on the provisions of Article (1/2nd) of the IHEC Law No. (31) of 2019, which stipulates (advising, organizing and implementing all types of elections and referendums, all federal and local in the governorates that are not organized in the region and supervising it in accordance with the provisions of the constitution in all parts of Iraq.) The Commission also sets the regulations and instructions approved in the elections based on the provisions of item (1st) of the aforementioned article, which stipulates (setting the regulations and instructions approved in the federal, regional, and local elections and referendums in all parts of Iraq to ensure their fair and impartial implementation). **3.** The IHEC is composed of the Board of Commissioners and the electoral administration in accordance with the provisions of Article (2) of the

IHEC Law No. (31) of 2019 and the Board of Commissioners exercise its specific powers under Article 10 of the aforementioned law as stated in (5th) From the same article (The Board of Commissioners exercises the following powers: Deciding on all electoral complaints and appeals, and its decisions are subject to appeal before the Judicial Commission for Elections). **4.** The Board of Commissioners has the authority to decide on complaints submitted to it based on the provisions of Article (18/1st) of the IHEC Law No. (31) of 2019, which stipulates that (the Board of Commissioners has the authority to decide on complaints submitted to it, and the Board of Commissioners refers criminal cases To the competent authorities if there is evidence of misconduct related to the integrity of the electoral process) and the Council has the exclusive authority to resolve disputes arising from the preparation and implementation of national elections in accordance with the provisions of item (2nd) of the aforementioned article, which stipulates that (the Council has the exclusive authority to resolve disputes arising from the preparation and implementation of national elections He may delegate the authority to the electoral administration to resolve disputes as they occur. Decisions of the Board of Commissioners may not be appealed except before the Electoral Judicial Authority, based on the provisions of Article (19/2nd) of the Law of the IHEC, No. (31) of 2019, which stipulates that “Decisions of the Board of Commissioners may only be appealed before the Electoral Judicial Authority in matters related to the elections.” The electoral process exclusively.) The decisions of the judicial body are considered final in accordance with the provisions of Clause (3rd) of the same article which stipulates that (the decisions of the judicial body for elections are considered final). **5.** The political party or candidate may appeal the decision of the Board of Commissioners within (3) three days starting from the day following its publication in accordance with the provisions of Article (20/1st) of the IHEC Law No. (31) of 2019, which stipulates that (the political party or candidate may appeal By the decision of the Board of Commissioners within (3) three days starting from the

day following its publication, and the appeal request shall be submitted to the National Office or any electoral office of the Commission or directly to the judicial authority.) The Judicial Commission for Elections shall decide on the appeal within a period not exceeding (10) ten days. Based on the provisions of item (3rd) of the aforementioned article, which stipulates that (The Judicial Commission for Elections shall decide on the appeal submitted within a period not exceeding (10) ten working days from the date of the Board of Commissioners' response to the appeal).

6. The Commission may seek the assistance of experts from the United Nations Electoral Assistance Office in the stages of preparation, preparation, and conduct of elections and referendums based on the provisions of Article (21) of the IHEC Law No. (31 of 2019 which stipulates that (the Commission may seek the assistance of experts from the Electoral Assistance Office of the United Nations in the stages of preparation, preparation and conduct of elections and referendums) and that the use of experts according to what was mentioned in the mentioned article must be within the framework of electoral assistance in the stages of preparation and preparation or during the conduct of elections. **7.** Every citizen has the right to participate in public affairs and enjoy political rights, including the right to vote, elect, and be nominated, in accordance with the provisions of Article (20) of the Constitution of the Republic of Iraq for the year 2005, which stipulates that (citizens, men, and women, have the right to participate in public affairs and enjoy political rights, including The right to vote, elect, and be nominated.) where the Iraqi Council of Representatives consists of a number of members at the ratio of one seat for every 100,000 people who represent the entire Iraqi people. They are elected by direct secret public suffrage, and the representation of all components of the people in it is taken into account in accordance with the provisions of Article (49/1st) of the Constitution and regulated by law the conditions of the candidate and the voter and everything related to the election in accordance with the provisions of Clause (3rd) of the aforementioned article, the election law

aims to achieve a representation of women not less than a quarter of the number of members of the Council of Representatives, according to what was stated in item (4th) of the aforementioned article, and that voting is the right of every Iraqi without discrimination based on gender, race, nationality, origin, color, religion or sect. Or belief, opinion, economic or social situation, and every voter exercises his right to vote for elections freely, directly, secretly, and individually. Voting by proxy is not permitted according to the provisions of Article (4/1st and 2nd) of the Iraqi Council of Representatives Elections Law No. (9) of 2020. **8.** The electoral system in Iraq is based on dividing a single governorate into several electoral districts. The nomination is individual within the electoral district. The arrangement of candidates in one electoral district is based on the number of votes each of them received. The winner is the one who gets the highest votes according to the winner system. The first and so on for the remaining candidates. The electoral districts are formed according to the tables that were voted on in accordance with the provisions of Article (15/1st, 2nd, 3rd, and 6th) of the Iraqi Council of Representatives Elections Law No. (9) for the year 2020 and since the Council of Representatives consists of (329) three hundred and twenty-nine seats, Therefore, (320) three hundred and twenty seats are distributed to the governorates according to their administrative boundaries and (9) nine quota seats are distributed according to the provisions of Article (13/1st) of the aforementioned law, and the percentage of women's representation shall be no less than (25%) of the Members of the Council of Representatives and no less than (25%) of the number of members of the Council of Representatives in each governorate, according to the provisions of Article (16/1st and 2nd) of the same law. **9.** Based on the provisions of Article (38/1st) of the Iraqi Council of Representatives Elections Law No. (9) of 2020, the Commission adopts electronic results accelerator devices and is obligated to announce the preliminary results within (24) hours of the end of the poll. Manual counting and sorting are conducted for the purpose of

matching by one station. From each electoral center and in the event that the results of the electronic counting and sorting do not match the results of the manual counting and sorting by (5%) of the votes of that station, then the re-counting and manual counting of all the stations of the electoral center will be carried out. of the results and ballot papers at each polling station in accordance with the provisions of Clause (7th) of the aforementioned article. **10.** The Commission is committed to contracting with a reputable international company to examine the software of the voting devices (results accelerator devices) and the devices attached to them in accordance with the provisions of Article (38/3rd) of the Iraqi Council of Representatives Elections Law No. (9) of 2020, which stipulates (The Commission shall contract with One of the solid international companies with expertise in technology and has similar work to check the software of voting devices (results accelerator devices) and the devices attached to it. **11.** What was stated in the plaintiffs' lawsuit that the commission announced the success of the second and third simulation, contrary to what was stated in report No. (3) of the examining company, and that the report of the examining company included violations that allow the process of manipulation and fraud, as not all the fingerprints of voters were uploaded to the database before The elections, therefore, it is not possible to match the fingerprints with the storage available in the database, and that the examining company submitted a request to the Commission to obtain the final programs and their versions before the elections, and the Commission did not respond to this and refused to enable the examining company to examine the results display device (C1000) and the Commission did not inform the company The examiner measures the digital representation of fingerprints and the storage in which the Commission works, and that the examining company recommended the Commission not to store and freeze programs and systems before (6) weeks of the elections. The elections, however, the Commission has updated the software for the acceleration of results and verification device, and the company did not feel this, and the presence of

communication devices activated in the verification device, and that the Commission violated the provisions of Article (38/7th) of the Iraqi Council of Representatives Elections Law No. (9) of 2020 by not handing over agents of political entities On the day of polling, the results tapes and photographs of the polling forms. The commission partially announced the results and opened the door for appeal, in violation of the law. Partial announcement of the results before the complete counting and sorting made it obligatory for the commission that it is not possible to undo these results and the possibility of change in them. This court finds that all that was mentioned is directly related to the procedures of the electoral process and that the Board of Commissioners of the IHEC is competent to consider them, and its decisions are subject to appeal before the Judicial Authority for Elections based on the provisions of Articles (18 and 19) of the IHEC Law No. (31) of 2019 and that the legislator limited consideration to such These matters are referred to the Board of Commissioners so as not to deprive the aggrieved party of the right to appeal before c Another is the judicial authority for elections. **12.** If the plaintiffs request to present the report of the examining company Hensoldt to experts to evaluate what is stated in it and give an opinion on it, then this court finds that its jurisdiction with regard to ratifying the final results of the general elections for membership in the Council of Representatives is limited to what was stated in Article (93/7th) of the Constitution of the Republic of Iraq for the year 2005 which stipulated (The FSC is competent with the following: ratification of the final results of the general elections for the membership of the Council of Representatives) and Article (4/7th) of the FSC Law No. (30) of 2005 amended by Law No. (25) of 2021 which stipulates (The FSC has jurisdiction over the following: The ratification of the final results of the general elections for the membership of the Council of Representatives) The results of the elections to the Council of Representatives are considered final and suitable for approval by the FSC. The results of the elections, which in turn decide on them and whose decisions are subject

to appeal before the Judicial Commission for Elections based on the provisions of Article (19/1st and 2nd) of the IHEC Law No. (31) of 2019 and the decisions of the Judicial Commission are final. The examining company presents its reports based on what it possesses of experts in the field of election equipment, especially that the purpose of that contract, according to Article (38/3rd) of the Elections Law, is to “examine the software for voting devices (results accelerator devices and devices attached to them). **13.** The objection of some blocs and some of the candidates for the elections of the Iraqi Council of Representatives for the year 2021 to the final results of the general elections after the Judicial Commission for Elections decides on those objections, that objection, regardless of its justifications and reasons, undermines the value of the elections, weakens the voter’s confidence in them and derails the political process from its track. It is correct in consolidating the principles of democracy represented in the rule of law and the people’s exercise of power through secret and direct universal suffrage and its constitutional institutions as the source of powers and their legitimacy and the achievement of the principle of separation of powers, and that this will affect the performance of the legislative and executive authorities as they are a product of those elections. Electronic counting and sorting by electronic results accelerator devices and that this mechanism loses the electoral process credibility and affects the results of the elections due to the possibility of penetrating these devices by modern scientific and technological means. Therefore, most countries of the world have left that mechanism, including some of the advanced countries in the scientific field, which have made great strides in their democratic practices, and this court finds that intervention must take place, legislative by the next Council of Representatives to amend the Iraqi Council of Representatives Elections Law No. (9) of 2020 and adopt the manual counting and sorting system instead of electronic counting and sorting, as the basis for the success of the elections and the consolidation of the principles of democracy through it depends on the voter’s confidence in their

credibility and integrity. Its objection to the election results is that some of the procedures taken by the IHEC are incorrect and that this calls for the necessity of achieving complete independence for it in terms of its organizational structure and setting an electoral system that will gain the confidence of all through the enactment of laws that necessitate that. Accordingly, and all of the above, the FSC decided the following:

1. The ruling dismissed the plaintiffs' suit, Hadi Farhan Abdullah and Muhammad Jassim Hammoud, and charged them fees, expenses, attorney fees, and the defendant's attorneys/ being in his capacity amount of one hundred thousand dinars distributed according to the law.
2. Refusal of the plaintiffs' request to issue a custodian order to stop the procedures for ratifying the final results of the general elections for membership in the Council of Representatives for the year 2021.

A final and binding judgment for all authorities was issued in agreement based on the provisions of Articles (93/7th) of the Constitution of the Republic of Iraq for the year 2005 and Articles (4/7th and 5/2nd) of the FSC Law No. (30) of 2005 amended by Law No. (25) of 2021 and I understand Publicly on 22/Jumada Al-Awwal/1443 coinciding with 27/December/2021.

Signature of

The president

**Jasem Mohammad
Abod**