

In the name of God most Gracious most Merciful

Republic of Iraq
Federal Supreme Court
Ref. 164/federal/2021



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 6. 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 Appellant: Anas Falah Ayed Rashid / candidate in the Taqaddam Alliance / the 68 / First Constituency / Salah al-Din Governorate, and his attorney, Hassan Jaber Salman.

The Appellant: The decision of the Board of Commissioners of the Independent High Electoral Commission (IHEC) to announce the preliminary results of the elections of the Iraqi Council of Representatives for the year (2021) according to Administrative Order No. (6117) dated 8/11/2021.

The Request:

Through scrutiny, it became clear that the appellant, Anas Falah Ayed Rashid, had requested through his attorney, Hassan Jaber Salman, his attorney, in accordance with his regulations dated 23/11/2021 for which the legal fee was collected on the same date and registered in No. (164/federal/2021), to appeal against The decision of the Board of

Commissioners of the (IHEC) to announce the preliminary results of the elections for the Iraqi Council of Representatives for the year (2021) according to Administrative Order No. (6117) dated 8/11/2021, he requested the cancellation of the results of the violating polling stations in Salah al-Din Governorate, which did not close on time according to the attached results report tapes, the list of names of centers and stations, the closing dates and the non-counting of their votes. Articles (19 and 20) of the (IHEC) Law No. (31) of 2019, based on the reasons included in it, the conclusion of which was the following: :(The candidate who is affiliated with the Taqaddam Alliance, a sequence (68) within Constituency No. (1) in Salah al-Din Governorate, had previously submitted an appeal before the Board of Commissioners of the (IHEC) on the results of the Iraqi Parliament elections for the year 2021, and after unifying the appendix of the appeal with its original, The appeal was dismissed under Administrative Order No. (6117) on 11/8/2021 based on the text of Council of Commissioners Resolution No. (22) of Ordinary Minutes No. (48) on 4/11/2021 under the memorandum of the Complaints and Appeals Department No. (S/21/1036) on 4/11/2021 as he challenged some of the results of the centers and stations that were not closed at the time set by the commission according to the law at six o'clock in the evening and the number of these stations is (42) stations distributed over (26) polling stations in the areas of Ishaqi and Samarra, the center and the outskirts, as shown in the disclosure attached to the appeal and this This means that the closure was exceeded at the time set by the Commission on the day of the general polling on 10/10/2021, and that the failure to close the stations on time had a negative impact on the election results for the appellant and caused the loss of his right and because this constituted a legal violation, so he appealed before this court, requesting the cancellation of the results Violating polling stations, and obligating the IHEC to amend the polling result announced on 16/10/2021 based on Articles (19 and 20) of the IHEC Law No. (31) of 2019.

The Decision:

After scrutiny and deliberation by the FSC, it turned out that the appellant, Anas Falah Ayed Rashid, appealed before this court against the decision of the Board of Commissioners of the IHEC to announce the preliminary results of the elections of the Iraqi Council of Representatives for the year (2021) under Administrative Order No. The violating polling stations in Salah al-Din Governorate, which did not close on time according to the attached results report tapes and the list of names of centers and stations and the dates of closure and not counting their votes. For Articles (19 and 20) of the IHEC Law No. (31) of 2019), for the reasons included in the appeal list, and this court finds that one of its functions and competencies is in accordance with the provisions of Article (93/7th) of the Constitution of the Republic of Iraq for the year 2005 (ratifying the final results of the general elections for membership of the Council of Representatives), and this jurisdiction is supported by Article (4/7th) of FSC Law No. (30) of 2005 amended by Law No. (25) of 2021, and that the court's exercise of its role in approving the final results of the elections is after sending those results from the IHEC to this court after resolving complaints and appeals submitted in their regard by The Board of Commissioners and the judicial body competent to hear appeals, as the decisions issued by the Board of Commissioners of the IHEC may not be challenged except before the Judicial Authority for Elections, especially in matters related to the electoral process exclusively, based on the provisions of Article (19/2nd) of the Law of the IHEC No. (31) of 2019 published In the Iraqi Gazette, issue (4569) on 30/12/2019, the decisions issued by the Judicial Authority for the elections are considered final based on the provisions of Paragraph (3rd) of the aforementioned article, And since the appellant had exercised his legal right to object and challenge the election results before the IHEC and the Judicial Authority for Elections in application of the provisions of Article (19) of the aforementioned IHEC Law, and since the decision issued by the Elections

Judicial Authority is not subject to appeal before This court or any other judicial body is irresolute, so on the basis of the foregoing, considering (the appeal to the decision of the Board of Commissioners of the IHEC to announce the preliminary results of the elections of the Iraqi Council of Representatives for the year (2021) according to the administrative order No. (6117) dated 8/11/2021, and requesting the annulment of the results of the violating polling stations, in Salah al-Din Governorate, which was not closed on time according to the attached results report tapes and the list of names of centers and stations, closing dates and not counting their votes and obligating the IHEC to amend the polling result announced on 16/10/2021 based on Articles (19 and 20) From the Electoral Commission Law No. (31) of 2019), it is outside the powers and competencies of this court, especially since its competencies are specified under Articles (52 and 93) of the Constitution and Article (4) of the FSC Law No. (30) of 2005 as amended by Law No. (25) for the year 2021 and other laws, and for lack of jurisdiction. Therefore, the FSC decided to reject the appeal in form, and the decision was issued by agreement, conclusive and binding on all authorities, based on the provisions of Articles (52) and (93/7th) and 94 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) for the year 2005, as amended by Law No. (25) for the year 2021 on 1/Jumada al-Ula/1443 coinciding with 6/ December /2021.