

Republic of Iraq
Federal Supreme Court
Ref. 181/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 Requester for the non-ratification of the election results / Abdul Sattar Majid Qader /teh 32/ Erbil Governorate/ Fourth District his attorney, Zana Saeed Khader.

The Request Summary:

Through the scrutiny, it became clear that the applicant, Abdul Sattar Majid Qadir, requested through his attorney, Zana Saeed Khader, according to its draft dated 5/12/2021, for which the legal fee was collected on the same date and recorded in the number (181/federal/2021), the election results were not ratified in Erbil Governorate (the fourth constituency), and he requested that the commission be obligated to cancel the results of stations in which there is a percentage Voters whose fingerprints crossed more than (5%) within the boundaries of that constituency under Articles (38/8th and 40/2nd) of the Iraqi Parliament Elections Law No. (9) for the year 2020 and due to the presence of legal violations, the summary of which lies in the following: 1- It was proven

that (2,347) voters in Erbil governorate had identical fingerprints out of (3781) cases of identical fingerprints in all of Iraq, which is equivalent to (70%) compared to all governorates of Iraq, according to the regular report No. (41) signed on 20 10/2021 (attached to the request) and most of it was within the fourth district. 2 - The Independent High Electoral Commission (IHEC) did not take any significant action regarding this serious breach, which it discovered after receiving reports and complaints to it, and the Commission had enough time to identify the electoral centers and stations where this major breach occurred, hold the officials responsible for it accountable according to the law, and cancel or address the results of these stations in a fair manner so that it restores the rights to its owners and preserves the will of the voters and the rights of the candidates. 3- The commission's failure to respond to the request submitted to it by the region's authority for the IHEC by the authorized political entity to which the applicant belongs on 10/19/2021 related to the matching of fingerprints in the third and fourth constituencies, attached to the request, and it had to take this matter The dangerous thing is more serious and not to neglect the appeals and requests submitted to it), and based on that, he requested not to ratify the election results in Erbil Governorate (the Fourth Constituency) and demanded that the Commission be obligated to cancel the results of stations where the percentage of voters crossed their fingerprints is more than (5%) within the limits of that circuit.

The Decision:

After scrutiny and deliberation by the FSC, it became clear that the applicant, Abdul-Sattar Majeed Qadir, requested not to ratify the election results in Erbil Governorate (the fourth constituency), and he requested that the commission be obligated to cancel the results of stations in which the percentage of voters crossed their fingerprints is more than (5%) within the limits of that district, due to the presence of legal violations according to the detail referred to in the regulation, and the FSC finds that

one of its tasks and competencies is according to 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 the membership of the Council of Representatives), and that jurisdiction is supported by Article (4/7th) of the FSC Law No. (30) of 2005 amended by Law No. (25) of 2021, and that exercising The court, for its role in approving the final results of the elections, takes place 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 consider appeals. And since the decisions issued by the Board of Commissioners of the IHEC may not be challenged except before the Judicial Commission for Elections, especially in matters related to the electoral process exclusively based on the provisions of Article (19/2nd) of the IHEC Law No. 31 of the year 2019 published in the Iraqi Gazette No. (4569) on 30/12/2019, and that the decisions issued by the electoral judiciary are finally based on the provisions of Paragraph (3rd) of the aforementioned article, and since the decisions issued by the Board of Commissioners are subject to appeal before the electoral judiciary, Therefore, the commission is obligated to cancel the results of stations in which the percentage of voters crossed their fingerprints is more than (5%) within the borders of the fourth district of Erbil governorate, it shall be within the jurisdiction of the Judicial Commission for Elections, not this court. On the basis of the foregoing, the defenses and violations contained in the request, assuming their existence, shall have jurisdiction to decide on them held by the Board of Commissioners, especially the cancellation of the results of the aforementioned stations, and that the decision issued by the Board of Commissioners is subject to appeal before the Commission Judicial elections and not before this court, especially since its jurisdiction is specified under Articles (52 and 93) of the Constitution and Article (4) of the FSC Law No. (30) of 2005 amended by Law No. (25) of 2021 and other laws, and due to lack of jurisdiction, the FSC decided to reject the request in form, and the decision was issued by

agreement conclusive and binding on all authorities based on the provisions of Articles (52, 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's Law No. (30) for the year 2005 amended by Law No. (25) for the year 2021 on 1/Jumada al-Ula /1443 coinciding with 6/12/2021.