

In the name of God most Gracious most Merciful

Republic of Iraq
Federal Supreme Court
Ref. 192/federal/2021



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 16. 1 .2022 headed by Judge Jasem Mohammad Abod and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, Diyar Muhammad Ali and who are authorized to judge in the name of the people, they made the following decision:

The Plaintiff: Hamid Najm Mohammed and his lawyers Abdul Jalil Ismail Hassan and Fatima Hammoudi Ali.

The Defendant: Chairman of the Board of Commissioners of the Electoral Commission/ being in his capacity His agent is legal counsel Ahmed Hassan Abd.

The Claim:

The plaintiff claimed by his agents that he had already participated in the elections of the Council of Representatives the fifth session in the province (Baghdad) district (14) sequence (94) and filed a complaint on 14/10/2021 for violations that occurred in the polling stations and stations where violations occurred, namely the closure of stations after the scheduled time of each station, where the votes after the scheduled time to close the centers were much more than the votes obtained before the time of closure, and the removal of the observers of entities representing him in the polling stations for the benefit of candidate Abdul Karim Ali Attan al-Jubouri and candidate Yahya Ahmed Faraj

Hammadi and candidate Yasin Mohammed Hamad Khalaf from the district (14) Baghdad, which obtained the votes after the scheduled closing time, so the plaintiff asked the FSC to re-count and sort and detect the devices and the time when those stations were closed, described under the accompanying paper of the petition. The case was registered with this court in the number (192/federal /2021) and the legal fee for it was met in accordance with article (1/3rd) of the bylaw of the FSC No. (1) of 2005 and informs the defendant/ being in his capacity in accordance with the provisions of article (2/1st) of the same rules of the procedure above, he replied in his list of the number (Kha/16/1772) on 16/12/2021, which includes: 1. The Independent High Electoral Commission Act No. (31) of 2019 has charted the legal way to challenge the decisions of the Board of Commissioners and the competent authority to hear objections to such decisions is the electoral judiciary under section (19/2nd) of the aforementioned law and no other party may be challenged, so the FSC is not competent to hear such a case. 2. The plaintiff has already appealed the decisions of the Council of Commissioners concerning the preliminary results of the elections and issued the decision of the Judicial Electoral Commission (387/ Judicial Electoral Commission/2021) dated 17/11/2021, which included the echo of the contested decision of the Council of Commissioners to announce the preliminary results of the elections of the Iraqi Council of Representatives on 11/10/2021 and the response to the appeal, since the decisions of the Electoral Tribunal are based on article (19/3rd) of the Independent High Electoral Commission Act No. (31) of 2019, and the reasons for the defendant's request/function to dismiss the plaintiff's case and charge him expenses. After completing the required procedures in accordance with the provisions of the rules of the procedure above, a date has been set for the case in accordance with the provisions of article (2/2nd) of it, and the parties are informed of it, On the appointed day, the court was formed, and the prosecutors Abdul Jalil Ismail and Fatima Hammoudi Ali attended and attended the defendant/ being in his

capacity as his agent legal counsel Ahmed Hassan Abdul And Boucher in public advocacy, the prosecutor repeated the petition The defendant's agent replied, requesting a dismissal of the case for the reasons contained in the answering draft of 16/12/2021, and the agent of each party reiterated his previous statements and requests, and where there was nothing left to say, the end of pleading has been made clear and the court issued a decision the following verdict:

The Decision:

After scrutiny and deliberation by the FSC found that the case of prosecutor Hamid Najm Mohammed included the request for the verdict to re-count and detect the devices and the time when the stations within the (14th) electoral district in Baghdad were closed due to violations that took place in the electoral centers and stations detailed in the lists attached to the petition of his case, and the terms of reference of this court Defined by Article (93) of the Constitution of the Republic of Iraq of 2005 and Article (4) of the FSC Act No. (30) of 2005 amended by Law No. (25) of 2021 and that the provision of a binding The defendant/ being in his capacity of re-counting and counting the results of the elections and detecting the devices and the time when the stations in the polling stations were closed is outside the jurisdiction of this court contained in the above-mentioned articles, In particular, the Independent High Electoral Commission Act No. (31) of 2019 charted the legal path to be followed in challenging the decisions of the Council of Commissioners and the results of the elections, as article (19/2nd) of the above-mentioned law stipulates that (decisions of the Board of Commissioners may only be appealed to the judicial body of elections in matters relating exclusively to the electoral process), and paragraph (3rd) of the aforementioned article indicated that the decisions of the Judicial Commission for the elections are final, and according to the foregoing, the plaintiff's claim is unsupported by the constitution and is free to respond to it. The FSC decided to dismiss the claim of the plaintiff,

Hamid Najm Muhammad, and charge him all judicial fees and expenses, including attorney fees for the plaintiff's representative The legal employee, Ahmed Hassan Abd, owed him an amount of one hundred thousand dinars, and the ruling was decided in a final agreement based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 and Articles (4 and 5) of the FSC Law No. (30) for the year 2005 as amended by Law No. (25) for the year 2021 and the decision had made clear public on 13/Rajab/1443 coinciding with 15/February/2022.

Signature of
The president
Jasem Mohammad Abod