

Republic of Iraq  
Federal Supreme Court  
Ref. 20 / federal / media / 2014



Kurdish text

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The Federal Supreme Court (F.S.C.) has been convened on 13.7.2014 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen whom are authorized in the name of the people to judge, they made the following decision:

**The plaintiff:**

1. (sin. Ain. mim. Kha.) member of the former Iraqi Council of Representatives.
2. (alif. ra. Ra.) former member in the national assembly.

} Their agent the attorney (sin. Heh.ha.) and the attorney (ain. Jim.)

**The defendant:**

The Speaker of the Iraqi council of representatives (I.C.R.)/ being in this post – his agents the legal officials (heh. mim. sin.) and (Sin. ta. yeh.).

**The claim:**

The agent of the plaintiffs claimed that regard the issuance of the I.C.R. elections law no.(45) for 2013, she presented challenge

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against the constitutionality of article (11) of that law as the legislator deviated from the basic principles and rights listed in the constitution of 2005 by depriving the Fili Kurd (Lurs people) of their right of parliament representative by allocating (quota) for as the rest of listed component in the constitution, although the same reasons and causes of quota is available, the preamble of the constitution stated their sacrifices and suffer, the Iraqi constitution approved the principal of equality between Iraqis, equal opportunities, the state shall ensure that the necessary measures to achieve this are taken, according to articles (14, 16) of the constitution. article (49/1) the Council of Representatives shall consist of a number of members, at a ratio of one seat per 100,000 Iraqi persons representing the entire Iraqi people, but in fact there is no representative for the Fili Kurd in the I.C.R. due to the electoral law nature as the Fili Kurd are distributed in different regions or out of Iraq. The legislature didn't take into consideration the well of the executive power to reduce their suffer throw actions to remove offensive effects happened to them. The council of ministers in it decision no.(426) on (2010) decided to eliminate these effects, the law of electing the governorates councils no.(36) for 2008 that has been amended with the law no.(114) for 2012 has stated in its articles specified quota for them, which indicate the well of the legislature to allocate quota for them. Paragraph (c) of article (2) of the constitution stated that no law may be enacted that contradicts the rights and basic freedoms stipulated in this constitution. therefore the agent of the plaintiffs requested the F.S.C. to rule that article (11) of the I.C.R. election law no.(45) for 2013 is unconstitutional as it didn't stipulate allocation of quota for Fili



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Kurd, and to suspend the implementing procedures of article (11) of the mentioned law until final decision is issued for the damage of implementing it, and to compile the defendant being in this post to issue a legislation that include quota specified for the Fili Kurd, and to burden the defendant the expenses and advocacy fees. After completing the required procedure stipulated in article (1/3<sup>rd</sup>) and (2/2<sup>nd</sup>) of the F.S.C. bylaw no.(1) for 2005, in the argument the court heard the statements of the parties and their requests, the agent of plaintiffs repeated the case petition and requested to amend article (11) of the I.C.R. election law by adding the Fili Kurd so they would have specified quota similar to what the legislature allocated for them of four seats in Baghdad governorates council, he requested legislative interference to amend this article. The agents of defendant repeated the answering draft that the request to amend the article is out of the court jurisdictions requesting to reject the lawsuit and to burden the plaintiffs the expenses. the court found that the case is complete for reasons of judgment then decided to close the argument and issued the following decision.

### **The decision:**

During scrutiny and deliberation by the F.S.C. the court found that the plaintiffs agent has challenged article (11) of law no.(45) for 2013 the I.C.R. election law, then he requested to amend that article by adding the Fili Kurd so they would have specified quota similar to what the legislature allocated for them of four seats in Baghdad governorates council, whereas the text of article (11) of the law no.(45) of 2013 didn't stipulate the allocation of (quota) for Fili

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Kurd, that doesn't make it unconstitutional, that is legislative choice of the legislator, the request to amend the mentioned article by adding the Fili Kurd so they would have specified quota in the I.C.R. is not within the F.S.C. jurisdictions, as it is not within its jurisdictions to compile the defendant being in this post to allocate specified seats for the mentioned component in the I.C.R.. for the mentioned reasons the lawsuit is binding to be dismissed from the aspect of jurisdiction. accordingly the court dismissed the plaintiffs case and to burden them the expenses and the advocacy fees for the defendant' agents amount of (one hundred thousand) IQ.D. This decision has been issued unanimously, final and publicly on 13/7/2014.