



The Federal Supreme Court (F.S.C.) convened on 22.2.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed 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:

Khaleda Khalil Rasho (Member of Parliament) _ her two attorneys are lawyers Basem Khazal Khashan and Ahmed Said Moussa.

The defendant:

The Speaker of the Iraqi Council of Representatives (I.C.R.)/ in addition to his post – his agents the legal advisor Haithem Majid Salim and the legal official Saman Muhsen Ebraheem.

The claim:

The plaintiff claimed, through her two attorneys, that Article (5) of the Constitution stipulates that (the sovereignty of the law, and the people are the source of the authorities and their legitimacy, they are exercised by direct public secret suffrage and through its constitutional institutions), and Article (20) thereof stipulates that (citizens, men and women, have the right to participate in the affairs and the enjoyment of political rights, including the right to vote, elect and be nominated) and in accordance with these two articles and the

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significance of Article (49/First) of the Constitution, the right of Iraqi citizens, men and women, to elect their representatives in the Council of Representatives was established, just as under Article (49/first) the right of children of Ethnic and religious minorities in electing quota candidates for the minorities to which they belong, and their right to run for the seat allotted to their components arose, and in accordance with Article (2 / first / c) of the Constitution, which stipulates that (it is not permissible to enact a law that contradicts the rights and freedoms contained in this Constitution), and this The Council of Representatives Election Law No. (9) for the year 2020, which was enacted by the Council of Representatives under Article (49/first), must preserve the right to run for office and vote for all, and to equalize among Iraqis in exercising the right to vote and to run for public seats and for the seats of components alike, and every provision legal repeal The right to vote, elect and be elected, or postpone its exercise by members of the people or a group of its groups, or make it dependent on a suspensive condition, is considered void by virtue of Article 13 of the Constitution. The plaintiff, the Yezidi citizen, is challenging before the court the constitutionality of Paragraph (2/B) of Article 13 of the Iraqi Parliament Elections Law No. (9) for the year 2020 published in the Iraqi Gazette No. (4603) November 2020, because it contradicts the articles The aforementioned constitutionality, in addition to its conflict with Articles (14) and (16) of the Constitution, as follows:

First: Distinguishing between the Christian component and the Yazidi component in the governorate of Dohuk: Paragraph (Second) of Article (13) of the law, the subject of the case, allocated a seat for each component in each governorate in which its members constitute

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a significant proportion that requires this allocation, and five seats are allocated to the Christian component, including two seats In the governorates of Dohuk and Erbil, which were not included in the population census of 1997, but this article did not allocate a quota seat to the Yezidi component, whose proportion of Christians exceeded the proportion of Christians in this governorate, according to the records of the committee the number of the Yezidi voters registered in the electoral centers in the districts of (Smel, Zakho And Sheikhan), in which the Yezidis constitute (100%), amounted to (28,756) voters, except for the Yezidi voters registered in the mixed areas in this governorate, which means that their number exceeds (150,000) people. Failure to allocate this seat is a distinction between these two components.

Second: Depriving the Yazidis in Dohuk of their right to run for candidacy and to vote according to the paragraph under challenge that allocates only one seat to the Yazidi component in Nineveh Governorate, and the significance of Article (5) and Paragraph (Third) of Article 13 of the law in question, the right to elect a representative of the only Yazidi component is limited to the registered voters in Nineveh Governorate regardless their affiliation with the Yazidi component or not, the selection of a representative of the Yazidis in the Council of Representatives became common among the other components in Nineveh Governorate, while this article deprived the Yazidis in Dohuk Governorate from the right to elect their representative in the Council of Representatives. According to Article (13/Second/B) and the significance of Article (8/Five), the right of Yazidis to nominate for the quota seat is limited to Yazidis registered or residing in Nineveh Governorate, and this is

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considered discrimination between the members of the same component based on their place of residence and the Civil Status Department registered there. It contradicts the principle of equality before the law stipulated in Article 14 of the Constitution, and with the Yezidis' right to equal opportunities stipulated in Article 16 of the Constitution. The Federal Supreme Court has issued a number of decisions proving the necessity of allocating a quota seat to the Yazidi component in Dohuk governorate, including Resolutions No. (15/Federal/2018) and its Units and (11/Federal /2015) and ruled unconstitutionality of Paragraph (b) of Article (1/ Third) of the law amending the Elections Law No. (16) of 2005 because it allocated only one seat to the Yezidis in Nineveh Governorate because the allocation of one seat to this component is not commensurate with the number of its people, but the defendant enacted the Council of Representatives Election Law No. (45) of 2013 And he repeated the paragraph, which was declared unconstitutional in the text of paragraph (11/second/b) of this law, and this is a deliberate violation of the decision of the Federal Supreme Court. As the text ruled to be unconstitutional was implemented in the elections of 2014 and 2018, the defendant enacted the law of electing the Council of Representatives No. (9) for the year 2020 and reinstated the paragraph ruled unconstitutional for a third time to be applied in the upcoming elections, and this is an insistence on violating the decisions of the Federal Supreme Court irrevocably ruling the constitution, and as a result, an insistence on violating the constitution. The aforementioned decision was issued, after the results of the 2010 elections were announced, and after the distribution of seats according to the results of the elections became a

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reality that cannot be changed. Therefore, the aforementioned resolution obligated the Council of Representatives to legislate a text that guarantees the Yazidi component a number of seats commensurate with the number of its peoples in the law regulating the election of the Council of Representatives for the year 2014 after conducting the population census that was supposed to take place after the 2010 elections and did not take place, while constitutional rights may not be suspended. The plaintiff, in this case, requests the allocation of one seat to the Yazidi component in Dohuk governorate, in accordance with the rules followed by the defendant to allocate a quota seat for the Christian component in this governorate, because not allocating this seat is a discrimination between the Christian component and the Yezidi component in this governorate, and because the Yezidis are forbidden in Dohuk has the right to run for the quota seat of the Yazidis, as well as their right to elect a representative. Based on the foregoing, the plaintiff requested the Federal Supreme Court to rule the unconstitutionality of Paragraph (Second / B) of Article 13 of Parliament Elections Law No. (9) of 2020, and obligating the defendant to amend Paragraph (Second / B) and allocate a quota seat for the Yazidi component in Dohuk governorate, provided that the amended text limits the right to vote for the candidates of the quota components to the sons of the components themselves alone, because the release of the right to vote for the candidate of the Yezidi component to all the sons of the other components in Nineveh governorate establishes the subordination of the minority component's choice to the will of the majority components in the governorate, and contradicts the principles of Democracy and the basic rights and freedoms contained in the

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constitution, including equality and equal opportunities, and this means that the paragraph whose constitutionality is being challenged contradicts articles (1/first/b, c), (5), (14), (16) and (20) of the constitution. The case was registered with this court in No. (43/Federal/2021), and the legal fee was collected for it, according to the provisions of Article (1/Third) of the Federal Supreme Court's Bylaw No. (1) of 2005, the defendant is informed of its petition and documents in accordance with the provisions of Article (2/first) of the same bylaw, and his attorneys responded with the answer list dated 06/20/2021, which included the following:

- 1- The lack of provision for Paragraph (Second/B) of Article (13) of the Law Council of Representatives elections No. (9) for the year 2020 to allocate (a quota) for the Yazidi component in the Dohuk governorate does not make the article under challenge unconstitutional and that it came as a legislative option that belongs to the legislator.
- 2- Not allocating quota for a specified component in a specific governorate is because the population census, which is the decisive factor in knowing the number and density of the population in any governorate did not hold, as indicated by the text of Article (13/first) of the Parliament Election Law No. (9) for the year 2020.
- 3- As for the Yazidi component having a large weight in Dohuk governorate with the aforementioned number mentioned in the appeal list, this does not require the allocation of a (quota) because the candidates of the mentioned component will gain the confidence of the voters based on their general representation without the need to allocate a seat within their quota.

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4- The request for a ruling to obligate the Council of Representatives to amend the legal text subject to appeal is outside the jurisdiction of the Federal Supreme Court in accordance with the provisions of Article (91) of the Constitution, so the defendant's attorney requested to reject the plaintiff's suit and charge her judicial fees, expenses and attorney's fees, and after completing the required procedures in accordance with the provisions of the internal system The aforementioned, a date for the pleading was set in accordance with Article (2/II) of it, and the two parties were informed of it. On the appointed day, the court was formed. The plaintiff's attorney, Bassem Khazal Khashan, attended, and the defendant's attorneys, legal counsel Haitham Majed Salem and legal employee Saman Mohsen Ibrahim and Bushar attended the pleading. Public presence The court decided to admit him, and the legal representative, Ali Saeed Jassim, attended on his behalf, explaining that, based on Parliament Elections Law No. (9), it is not 2020 Chapter IV Article (13/Second) seats are granted to components, and Yezidis outside Nineveh governorate are not allowed to participate in choosing the special seat for the Yezidi component. Candidacy in the other national lists and the representative of each party repeated his previous statements and requests, and where there was nothing left to be said, I understand the conclusion of the pleading, and the court issued the following ruling:

The decision:

Upon review and deliberation by the Federal Supreme Court of the plaintiff's claim, evidence, requests and defenses of the defendant's attorney in addition to his job, the court concluded that the Republic

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of Iraq, based on the provisions of Article (1) of the Constitution of the Republic of Iraq for the year 2005, is a single, independent, federal state with full sovereignty and that the system of government in it is republican, representative, and parliamentary Democratic, and this constitution is a guarantor of Iraq's unity, as it included in the preamble of the constitution (Takfir and terrorism did not discourage us from moving forward to build a state of law, and sectarianism and racism did not stop us from marching together to promote national unity, pursue ways of peaceful transfer of power, adopt a method of equitable distribution of wealth, and grant equal opportunities In addition, the federal authorities, under the provisions of Article (109) of the Constitution of the Republic of Iraq, are obligated to preserve the unity, integrity, independence, sovereignty and federal democratic system of Iraq, and that this constitutional obligation to preserve the unity of Iraq requires the implementation of the provisions of Article (14) of the Constitution, which stipulates that (Iraqis Equal before the law without discrimination race, ethnicity, national origin, color, religion, sect, belief, opinion, economic or social status) and the application of the provisions of Article (16) of the Constitution, which stipulates (equal opportunities is a right guaranteed to all Iraqis, and the state guarantees taking the necessary measures to achieve this) And the application of the provisions of Article (20) of the Constitution, which stipulates that (citizens, men and women, have the right to participate in public affairs, and to enjoy political rights, including the right to vote, elect and be nominated), and since the Council of Representatives is the first federal authority based on the provisions of Article (47) of the Constitution, which It represents all components of the Iraqi people,

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and since it assumes the powers stipulated in Article (61) of the Constitution, which belong to all the Iraqi people, including the legislation of federal laws and the oversight of the performance of the executive authority, all of this requires full representation of the people in the Council of Representatives, where the state is built on the basis of the existence of Constitutional institutions that carry out their tasks and duties in accordance with their terms of reference set forth in the constitution and on the basis of the principle of separation of powers, cooperation and integration to achieve the goals of the Iraqi people. Paragraph (b) of Clause (Second) of Article (13) stipulates that (the Yazidi component (1) has one seat in Nineveh Governorate), this contradicts the provisions of Articles (14, 16 and 20) of the Constitution, as the said component must be treated with all other components of the Iraqi people which require ruling that it is unconstitutional and that this requires addressing the provisions of Paragraph (D) of Item (Second) of Article (13) of the same law, which stipulates (the network component (1) one seat in Nineveh Governorate) and addressing the provisions of Paragraph (E) of the item (Second) of Article (13) of the same law, which stipulates (the Faili Kurdish component (1) one seat in Wasit Governorate) and the obligation to treat the Yazidi, Sabean-Mandaean, Shabak, and Faili Kurdish components in the same way as all components of the Iraqi people. Since the aforementioned texts do not grant the aforementioned components equal opportunities, this violates the principle of equality, and since finding the common national and Iraqi patriotism is the basis for building the state and the relationship between its components away from factional, regional, sectarian and ethnic interests, and rebuilding the state in accordance with the

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contexts of national unity and civil and community peace, not fragmentation or Fragmentation and full belief in the unity of the state and its transcendence as the reference for the legislative, executive and judicial authorities, and that this requires acknowledgment of the rights of all components, especially since the Iraqi society, despite its national, religious, intellectual and political diversity, what unites it is much more than what divides it, and that a society like the Iraqi society needs a democratic governance framework that preserves all rights Components of society and allow their representation, as democratic rule preserves the rights of all components of the people and allows their representation, as all components of the Iraqi people have a great role in building Iraq and maintaining its unity, and the Faili Kurds were subjected to great injustice during the era of the previous regime, as were the Yezidi brothers and the Shabaks to genocide campaigns and committed Crimes against them Heinous by the terrorist organization ISIS, and this requires activating their national role and that they have full representation in the Council of Representatives, like all other components of the Iraqi people, and in a manner that guarantees their national rights. Accordingly, and for all of the above, the Federal Supreme Court decided to rule the unconstitutionality of Paragraphs (B, D, and E) of Item (Second) of Article (13) of the Elections Law No. (9) for the year 2020 and to cancel them as of the date of this decision and to rescind its previous decision on the number (45 / Federal / 2020) regarding the seat of the Faili Kurdish component and notifying the Council of Representatives to legislate alternative texts to ensure the achievement of the principle of equality between the components mentioned in the above paragraphs with the

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Kurdish text

Christian and Sabian components in accordance with the provisions of Clause (Third) of Article (13) of the same law, and charge the plaintiff He shall pay the fees, expenses, and attorney fees for the plaintiff's attorney, an amount of one hundred thousand dinars, lawyer Ahmed Saeed Musa, to be distributed according to the law. A final ruling, by agreement and binding on all authorities, 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 Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021 and publicly understood on Rajab 20/ 1443 AH corresponding to 22/2/2022 AD.

Signature of
The president

Jasem Mohammad Abbood

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