

Republic of Iraq  
Federal Supreme Court  
Ref. 44 / federal /2020



Kurdish text

The Federal Supreme Court (F S C) has been convened on 13/7/2021 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jabir Abid, Hayder Ali Noori, Khaled Ahmed Rajab, Ayooob Abbas Salah, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who authorized in the name of the people to judge and they made the following decision:

The Plaintiffs: 1. Ali Khaleel Ibrahim Al-Amiri.  
2. Abdul Salam Wuhaeb Mohammed.  
3. Auda Hashim Hussein.  
4. Saad Mahdi Muhaysen.  
5. Mohammed Jassim Mohammed.  
6. Mohammed Amer Atiyah.

} Their agent  
The barrister  
Ahmed Thamir  
Habeeb

The defendant: the Speaker of the Iraqi Council of Representatives/ being in this capacity – his agents the legal counsellor Haytham Majid Salim and the official jurist Saman Muhsin Ibrahim.

### **The Claim**

The plaintiffs claimed that on 26 October 2020, the Iraqi Parliament voted on the new electoral law (electoral districts) where the law divided the regions, including district areas Article (1) Chapter 1, the (electoral districts) including Al-Sha'ab district, instead of being one district and according to the administrative boundaries of the judiciary, were merged with other districts indiscriminately, irregularly and non-contiguously, as areas of the Al-Sha'ab's district were cut off and attached to other districts in reverse, where the nearby areas of Al-Jazair (Al-Jazair 1 and 2) were merged. Adjacent to al-Adhamiya district to the district of Husseiniya and Rashidia, which is about (13.5) km away from it, as well

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as the integration of (Al-Jazair /3) adjacent to the district of Husseiniya and Rashidia to the district of Al-Adhamiya and considering that the electoral entitlement to Al-Sha'ab district according to the borders Administrative is (5) five seats according to the standard of middle electoral districts (5-3) five to three seats approved by the House of Representatives and obliged itself and therefore this distribution has reduced the share of the Al-Sha'ab's district and deprived voters of voting in their electoral districts, which is a violation of the Constitution, so the plaintiffs asked the Federal Supreme Court to invite the defendant/ in addition to his job to plead and rule by obliging him to amend the electoral district system, including the Al-Sha'ab's district by returning It included its areas according to administrative boundaries (registration center 1082- Al-Jazair /1), (registration center 2082- Al-Jazair/2) and (registration center 3082- Al-Jazair/3) and its inclusion in previous electoral to Al-Sha'ab district with the rest of the electoral districts and issue a state order to suspend the implementation of the new electoral law No. (9) On 9/11/2020 until the case is resolved and the defendant is charged fees, expenses and attorney's fees, the case was registered with this court in number (44/federal/2020) and paid the legal fee in accordance with paragraph (III) of article (1) of the rules of procedure of the Federal Supreme Court No. (1) Of 2005 and informs the plaintiff of the year 2005 and the defendant/ being in this capacity was informed of the petition based on the provisions of article (2/first) of the Bylaw and the defendant's agents/being in this capacity responded to their regulations dated 5/12/2020: 1. The plaintiffs' request to oblige the House of Representatives to amend the electoral district system is outside the consideration of the jurisdictions of the Federal Supreme Court contained in article (93/first) of the Constitution. 2. The text in question was a legislative option in accordance with the jurisdictions of the House of

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Representatives in the legislation of federal laws and on the basis of the provisions of section (I) of article (61) of the Constitution, and for the reasons given for the defendant's attorneys' request to dismiss the plaintiffs' claim and charge them with judicial fees, expenses and lawyers' fees. The prosecutor responded to his list of 20 December 2020:

1. The electoral law was passed by the legislature, but it was contrary to the decision of the Voting House of Representatives to distribute electoral districts by the number (216) on the date (26 August 2020) of paragraph (2-D) which emphasizes the obligation of geographical proximity in electoral districts.
2. The mechanism for distributing electoral districts to the Al-Sha'ab's districts is a clear and clear violation of Article II of the new electoral law, which affirms the guarantee of justice, equality and freedom of election, as well as the constitutional equality of citizens, and equality is achieved by the voter choosing who he represents, and this is not achieved if a particular area is cut off and attached to a distant circle.
3. The current distribution of the electoral districts in question is a clear dedication to sectarianism and sectarianism because it has cut certain areas from a district with a majority of a particular sect and merged it with another district far from it that represents a majority of the same sect and crossing many adjacent areas of a diverse sectarian nature is another violation of the same decision of the House of Representatives mentioned in paragraph (2.Dal) which recommends a full commitment to the diversity of components and the adoption of the principle of transparency when distributing electoral districts.
4. The distribution of electoral districts has not been developed by the competent technical authorities, namely the Independent High Electoral Commission and under the supervision of the United Nations to ensure the equitable distribution of constituencies and with clear correct technical grounds, as well as voting on electoral districts where it

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was not voted on by one constituency after another for all members of the House of Representatives to see, but the vote came at once to camouflage and camouflage a large number of members of the House of Representatives. 5. This irregular distribution, which stated the new law and violated the principle of juxtaposition approved by the House of Representatives, led to an increase in the share of the judiciary and a decrease in the share of another judiciary based on an unreal standard in which small areas were deducted from one district and merged with another district as mentioned earlier, so for advanced reasons the application for the judgment in accordance with the petition of the suit. After completing the required procedures in accordance with the provisions of article (2/first) of the Rules of Procedure of the Federal Supreme Court No. (1) Of the year (2005), Yum (20/6/2021) was appointed as the date of the case and the parties to the case were informed on the basis of the provisions of paragraph (II). Article 2 of the said system, on the day of the hearing, the court was formed, and the prosecutor attended the lawyer Ahmed Thamer Habib, as did the first plaintiff in particular, and attended for the defendant/ in addition to his job as legal counsel Haitham Majid Salem and human rights officer Saman Mohsen Ibrahim and Boucher in the case In public, the prosecutor repeated the petition and requested the verdict, according to which the prosecutor provided an explanatory list dated 20 June 2021, which contained the same reasons referred to in his draft of 20 December 2020, the defendant's agents replied that they were repeating their answer draft and requested that the plaintiffs' case be dismissed for its reasons, and the court heard the latest statements of the parties and where there was nothing left to say, the court understood the conclusion of the case on 13 July 2021 and issued the following ruling publicly:

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**The decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiffs' claim included a request to oblige the defendant (speaker of the Iraqi Parliament/in addition to his job) to amend the electoral district system stipulated in the Iraqi Parliament Elections Act No. 9 of 2020 issued on 9/11/2020, including the Electoral District of the District of Al-Sha'ab by returning and annexing its areas according to the administrative limits of the judiciary and issuing a w noticeable order to suspend the implementation of the law above until the case is resolved. The terms of reference of this Court, which came out of article (93) of the Constitution of the Republic of Iraq for 2005 and Article (4) of the Federal Supreme Court Act No. (30) Of 2005 amended by Law No. (25) of 20 21 There is no indication that the defendant/ in addition to his job is obliged to amend the legislation issued by the House of Representatives in accordance with its powers under article (61) of the Constitution of the Republic of Iraq for 2005, so that the applications contained in the plaintiffs' petition shall be considered outside On the terms of reference of this court specified in article (93) of the Constitution and article (4) of the Federal Supreme Court Act referred to above and therefore the plaintiffs' case due to be dismissed in a form of jurisdiction. As he progressed, the Federal Supreme Court decided to rule:

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First: Reject the plaintiffs' request to issue a state order to stop the implementation of the Iraqi Parliament Elections Law No. (9) For 2020. Second: - Dismiss the plaintiffs' case in a form of jurisdiction. Third: - Charging the plaintiffs judicial expenses, including the fees of the lawyers and the defendant's agents/ in addition to his job an amount of 100,000 dinars distributed between them in accordance with the law, a judgment was issued by agreement based on the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for the year (2005) and Two articles (4 and 5/II) of the Federal Supreme Court Act No. (30) Of 2005 amended and publicly understood on 3/Dhul Al-Hujja/1442 Hijri, 13 July 2021 AD.

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|---------------------------------------|------------------------------------|--------------------------------------|
| <b>Signature of<br/>The president</b> | <b>Signature of<br/>The member</b> | <b>Signature of<br/>The member</b>   |
| <b>Jasem Mohammad<br/>Abbood</b>      | <b>Sameer Abbas<br/>Mohammed</b>   | <b>Haidar Jaber Abed</b>             |
| <b>Signature of<br/>The member</b>    | <b>Signature of<br/>The member</b> | <b>Signature of<br/>The member</b>   |
| <b>Haider Ali Noory</b>               | <b>Khalaf Ahmad Rajab</b>          | <b>Abdul Rahman<br/>Suleiman Ali</b> |

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**Signature of  
The member**

**Diyar Muhammad  
Ali**

**Signature of  
The member**

**Ghalib Amir  
Shunayen**

**Signature of  
The member**

**Ayoob Abbas Salah**