

Republic of Iraq
Federal Supreme Court
Ref. 7 / federal/state order /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 21/1/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Requestor of Issuing the State Order: Emile Boutros Costantine -
the candidate for the Christian quota for the Kirkuk Provincial Council-
His agent, the barrister Ghasan Dawood.

Who Requested to Issue the State Order Against: Chairman of the
Board of Commissioners in the Independent Electoral
Commission / being in this capacity.

The Request:

The applicant for the issuance of the state order submitted to this court the draft of claim dated 7/1/2024, for which the legal fee was collected on the same date, and was registered in the number (7/federal/2024) according to which the judgment is claimed (Canceling the results of the final elections in Kirkuk governorate, due to the failure of the person against whom the state order is issued, being in this capacity, to scrutinize voter records in accordance with the provisions of Article 13 of Law No. 4 of 2023 The third amendment to the Law of Elections of the Council of Representatives, Provincial Councils and Districts No. 12 of 2018, and the ruling obliging the person required to issue a state order against him to scrutinize voter records in Kirkuk Governorate in

Zainab

Republic of Iraq
Federal Supreme Court
Ref. 7 / federal/state order /2024



Kurdish text

accordance with the aforementioned article), he also requested the issuance of an urgent state order that includes :(obliging the required to issue the state order against him being in this capacity to suspend the ratification of the validity of the final results of Kirkuk provincial council elections) until the aforementioned lawsuit is resolved, for the reasons detailed in the lawsuit petition, the conclusion of which lies in the following:((On 18/12/2023, provincial council elections were held throughout Iraq, including Kirkuk Governorate, based on the provisions of Article (5/A) of Law No. (4) of 2023 mentioned above, whereas Article (13) thereof, concerning the elections of Kirkuk Governorate, stipulates that Article (35) of the Law and its amendments in Law No. (14) of 2019 shall be repealed, to be read as follows: First: The Independent High Electoral Commission coordinates with the relevant ministries (Interior, Health, Justice, Trade, Planning) And a representative of each component of the social province of Kirkuk from the members of the Council of Representatives for the province to audit the voter records in the province on the following bases:A: Citizens registered in the 1957 census, with the exception of citizens of the Zab district and Sarkaran district, shall be included in the Kirkuk governorate election register approved in the elections of the Council of Representatives or provincial councils. Beh:Returning deportees who have exceeded the fact-finding committee of article (140) of the Constitution or who will bypass its procedures in accordance with the applicable legal conditions and controls. Jim- Citizens residing in Kirkuk Governorate whose residence is proven through the ration card before 2003), and that what is required is to issue the state order against him and the ministerial committees have not completed the work entrusted to them in accordance with what is required by the said article before the date

Zainab

Republic of Iraq
Federal Supreme Court
Ref. 7 / federal/state order /2024



Kurdish text

of the provincial council elections specified, therefore, the elections held in Kirkuk province constituted a major breach of the work of the Independent High Electoral Commission and were considered a legal violation of the application of the text of the aforementioned article. It affected the validity of the election results, which opened the door to challenge the validity of their results due to the manipulation of voters and falsification of their will, and that the voter records in Kirkuk, on which the electoral process depends, are mainly - the subject of the challenge - and therefore it is not possible to accept the validity of the election results produced by the electoral process without completing the scrutiny of voter records and ensuring the achievement of societal peace)) he also submitted a request dated 17/1/2024 that includes expediting consideration of his aforementioned request, and after reviewing the plaintiff's request and conducting its scrutinies, the court issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for the issuance of the state order, due to his filing of the lawsuit in the number (7/federal/2024) before this court, requested under the statement of claim dated 7/1/2-24 to issue an urgent state order, which includes :(obliging the required to issue the state order against him in addition to his job to suspend the ratification of the validity of the final results of the Kirkuk Provincial Council elections) Until the aforementioned lawsuit is resolved, for the reasons referred to in detail in the lawsuit petition, and the Federal Supreme Court finds that the issuance of an urgent state order based on an independent request or implicitly in the constitutional lawsuits filed before it has not been addressed, It was also not addressed in the

Zainab

Republic of Iraq
Federal Supreme Court
Ref. 7 / federal/state order /2024



Kurdish text

Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, nor the Internal Regulations of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022. Thus, it is subject to the provisions referred to in Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, and to the extent commensurate with the nature and privacy of the constitutional lawsuit, Based on the provisions of Article (39) of the Rules of Procedure of the Federal Supreme Court referred to above, which stipulates that (the court may consider requests for summary judgment and orders on petitions in accordance with the provisions stipulated in the Civil Procedure Law No. (83) of 1969 as amended or any other law that replaces it) In terms of Article (36) thereof, which stipulates that (the court's decisions are final and binding on all authorities and persons and do not accept appeal by any means of appeal...), On the basis of the foregoing, the issuance of an urgent state order from the Federal Supreme Court is governed only by the controls and conditions that must be met for its issuance referred to in the Civil Procedure Law, for the finality of the decisions issued by this court, and not to be subject to the methods of appeal, which lies in submitting a request in two copies including facts, evidence and documents. And the availability of urgency, and not to enter into the origin of the right and decide on it, and since the audit of the request for the issuance of the state order from this court has proven the lack of urgency and the state of necessity that requires its issuance, in addition to the above, responding to its content means entering the origin of the right and giving a prior opinion on the constitutional lawsuit filed before this court in the number (7/federal/2023) under which the judgment is demanded (canceling the results of the final elections in Kirkuk governorate), due to the failure of the person required to issue the state

Zainab

Republic of Iraq
Federal Supreme Court
Ref. 7 / federal/state order /2024



Kurdish text

order against him, in addition to his job, to audit voter records in accordance with the provisions of Article (13) of Law No. (4) of 2023 The third amendment to the Elections Law of the Council of Representatives, Provincial Councils and Districts No. (12) of 2018, and oblige the person required to issue a state order against him to carry out the audit of voter records in the province of Kirkuk in accordance with the aforementioned article) For the reasons referred to in detail in its presentation, and that this contradicts the judicial norms established in the constitutional districts of Arab and foreign countries, and with what was settled by the Iraqi judiciary in both constitutional and ordinary parts and what was included in the established judicial applications in this area based on the provisions of the Constitution and the laws in force based on the realization of the right and the achievement of justice and fairness away from tendencies, whims, arbitrariness and flattery, There is no blame for the blame for what was really issued in terms of words or deeds, and thus the decision on the request of the applicant for the issuance of the state order, the duty to reject for two reasons: the first: is the absence of urgency and the state of necessity that requires its issuance, and the second: that deciding on it means entering the origin of the right and giving a prior opinion of the lawsuit filed before this court in the number (7/Federal/2023), according to the aforementioned detail, and for the foregoing, the Federal Supreme Court decided to reject the application submitted by Emile Boutros Costantine. The decision has been made clear based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005, and Article (5/2nd) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, final and binding and the decision has been made clear on the session dated 9/Rajab/1445 A.H. corresponding to 21/January/2024 AD.

Zainab

Republic of Iraq
Federal Supreme Court
Ref. 7 / federal/state order /2024



Kurdish text

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

Zainab

Federal Supreme Court - Iraq - Baghdad
Tel – 009647706770419
E-mail: federalcourt_iraq@yahoo.com
Mailbox- 55566