

Republic of Iraq  
Federal Supreme Court  
Ref. 8 / federal / media / 2014  
text



Kurdish

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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:**

(mim.ha.ain.) the president of Yezidi independent list – his agents the attorneys (zin.kaf. ain), (kha.ha.kha) and (beh. Sin. Sin.).

**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 agents of the plaintiff claimed that the defendant being in this post issued the law no. (45) for 2013 without granting the Yezidi component the share they deserve according to the F.S.C. decision no.(11/federal/2010) on (14.6.2010), by that the

Republic of Iraq  
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Ref. 8 / federal /media/ 2014  
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mentioned law in article (11/2<sup>nd</sup>/b) violated the provision of article (49) of the constitution, in addition it violated the F.S.C. decision contrary to the provision of article (94) of the constitution. the F.S.C. decided the unconstitutionality of the mentioned law, and the necessity of granting the Yezidi component seats in the I.C.R. term of 2014 that proportional to their population size, the F.S.C. decisions are final and obligatory and the Council should comet to it specially that the Yezidis numbers in Iraq are over than half a million, in the decided lawsuit they submitted evident evidence and proofs on that, that documents are attached to the case petition of that lawsuit. The law subject of challenge was not draft presented by the Council of Minister or the Presidency of the Republic, but it was law bill presented by the I.C.R, this is contrary to what the F.S.C. has decided, therefore the law is unconstitutional. Accordingly the plaintiff agents request the F.S.C. to rule the unconstitutionality of clause (2<sup>nd</sup>/ b) of article (11) of the law no.(45) for 2013 the I.C.R. electing law, with the necessity to add seats to the Yezidi component that it entitled legally, and to compile the defendant being in this post to commit to the decision of the F.S.C. and to burden him the expenses with the advocacy fee. After completing the required procedure stipulated in paragraph (3<sup>rd</sup>) of article (1), paragraph (2<sup>nd</sup>) of article (2) of the F.S.C. bylaw no. (1) for 2005, the argument has begun, the court heard the parties statements,

Republic of Iraq  
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Ref. 8 / federal / media / 2014  
text



Kurdish

the plaintiff agents repeated the case petition requesting to rule according to it, the defendant agents repeated the answering draft dated on 4.2.2014 requesting to dismiss the lawsuit for its reasons and to burden the plaintiff all the expenses, whereas nothing left to be seed , the argument is closed, the decision issued publicly.

### **The decision:**

During scrutiny and deliberation by the F.S.C., it found that the plaintiff has already acquired judgment from the F.S.C. dossier no.(11/federal/2010) on 14.6.2010 as the court decided that paragraph (b) of article (1/3<sup>rd</sup>) of the law no.(26) of 2009 is unconstitutional the amending law of the election law no.(16) for 2005, and that it is binding to allocate the Yezidi component number of the parliamentary seats commensurate with the number of the Yezidi peoples in the I.C.R. election for the 2014 cycle, in accordance with the census to be held in Iraq according to the provision of article (49/1<sup>st</sup>) of the constitution. as the raised subject before the F.S.C. in this lawsuit has already been adjudicated by the F.S.C. in the aforementioned lawsuit, the court decision become final and binding on all authorities according to article (94) of the constitution. as this lawsuit was filed before conducting the Censes, before it time , and it subject has been adjudicated, therefore this lawsuit is binding to be dismissed from this aspect. The F.S.C. decided to dismiss the lawsuit of the

Republic of Iraq  
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Ref. 8 / federal /media/ 2014  
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plaintiff formally, and to burden him the case expenses with the advocacy fee of the defendant agents amount of (one hundred thousand) IQ.D. This decision has been issued unanimously, final and publicly on 13.7.2014 .