

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq  
Federal Supreme Court  
Ref. 87 unified with 111  
and 112/federal/2019



Kurdish text

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The Federal Supreme Court (F.S.C.) has been convened on 18.11.2019 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 who are authorized in the name of the people to judge and they made the following decision:

The objector (the challenge submitter) in the lawsuit (87/federal/2019): Nashwan Bashir Ibrahim Hasso -his attorney Ismail Saymir Hashim.

The plaintiff in the lawsuit (111/federal/2019): Ali Mohamed Amin Mohamed -his attorneys Amal Yadallah Abd AlReda and lawyer Mahmoud Fayek Ismail.

The plaintiff in the lawsuit (112/federal/2019): Minister of Justice for the Kurdistan Region of Iraq/ being in this post -his agent the legal officer Bakhtiar Haji Hamad.

The defendant (in all the unified lawsuits): The speaker of the Iraqi council of representatives (I.C.R.)/ being in this post- his agents the legal officials the director Salim Taha Yasein and the legal advisor Haytham Majid Salim.

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**The claim:**

The agent of the objector (Nashwan Bashir Ibrahim) claimed in the lawsuit No.(87/federal/2019) that the council of representative (I.C.R.) in its session held on 23/7/2019 has approved the articles (12 and 16) of the governorates councils elections' law which authorized reconsidering and inspection the voters records, as the mentioned articles approval above consider as violation to the constitution in articles (20 and 140) of it therefore he initiate a challenge against it, were he requested the F.S.C. to judge to repeal the articles (12 and 16) of the law No.(14) for 2019 (first amendment law for the law of electing the councils of governorates and it incorporated districts No.(12) for 2018) for contradicting with article (13/2<sup>nd</sup>) of the constitution, and with the decision of the F.S.C. No.(15/2006) it also deprived many of the displaced and migrant persons from the right to vote. The gents of the defendant responded with the answering draft dated on 28/8/2019 requesting to reject the case because the challenged articles don't contradict the constitution in the listed articles in the case petition. After completing the required procedure according to the F.S.C. Bylaw No.(1) for 2005 the date 16/9/2019 was scheduled for the argument. The agents of the plaintiff (Ali Mohamed Amin Mohamed) in the lawsuit No.(111/federal/2019) has challenged the same law and requested the F.S.C. to judge the unconstitutionality and revocation the articles (3 and 12/7) of the law No.(14) for 2019 (first

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amendment law for the law of electing the councils of governorates and it incorporated districts No.(12) for 2018) which included to adopt the long or short-term smart card in case that the percentage of distributing the voters card didn't reached (75%), and also inspecting the voters records in Kirkuk governorate between the ration coupon and the civil status card no later than (31/December/2020) which violated the provisions of articles (2/1<sup>st</sup>/b and c), (14), (16), (20) and (140) of the constitution. the agents of the defendant responded with the answering draft dated on 8/10/2019 and requested to reject the case for the reasons listed in it. The agent of the plaintiff (minister of Justice for the Kurdistan /being in this post) in the lawsuit No.(112/federal/2019) has challenged the same law and requested the F.S.C. to judge the revocation and repealing articles (3), (12) and (16) of the law No.(14) for 2019 under the claim of violating articles (14), (16), (20) and (140) of the constitution, the agents of the defendant responded with the answering draft dated on 13/10/2019 requesting to reject the case for the reasons listed in it. after completing the required procedures of the lawsuits (11/federal/2019 and 112/federal/2019) the date 18/11/2019 was scheduled for the argument. On 18/11/2019 the court convened to consider the lawsuit No.(87/federal/2019) the agent of the plaintiff the legal advisor Haytham Majid Salim has attended, the plaintiff didn't attend despite the notification according to law, the court decided to continue with the argument,

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the court scrutinize the case petition and found that there are two cases in the same subject which is the lawsuit (111/federal/2019 and 112/federal/2019) and decided to unify the lawsuits and to consider them together in order to save time and effort according to the provision of article (75) of the civil procedures law, and to consider the lawsuit (87/federal/2019) is the original as it is the earliest in the initiation. The court call upon the plaintiff agent in the lawsuit (111/federal/2019) his agent the lawyer Amal Yadallah has attended, and calls upon the agent of the plaintiff in the lawsuit (112/federal/2019) the legal officer Bakhtiar Haji has attended and submitted answering draft summarized what listed in it which is a repeating of the case petition, meanwhile the agent in the lawsuit (87/federal/2019) and repeated the case petition, the agent of the plaintiff in the lawsuit (111/federal/2019) commented repeating what listed in the case petition, the agent of the defendant repeated what listed in the answering draft and requested to reject the case. the court found that the original case and its unified is completed for reasons of judgment, the argument is closed and the decision is issued publicly.

### **The decision:**

During scrutiny and deliberation by the F.S.C. the court found that the plaintiffs in the lawsuit 87/federal/2019 and the unified 111/federal/2019 and 112/federal/2019 has challenged that

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constitutionality of articles (3, 12, 16 and 17) of the law No.(14) for 2019 (first amendment law for the law of electing the councils of governorates and it incorporated districts) No.(12) for 2018. After securitizing we found that these articles was submitted to challenge against it constitutionality in the lawsuit No.(103/federal/2019), for the reasons listed in the claim, after the court has reviewed the lawsuit and it substantiations it has issued a judgment in it on 12/11/2019 stating the unconstitutionality of these articles according to the provision of article (14), (15), (20), (37/2<sup>nd</sup>), and (38/1<sup>st</sup>) of the constitution and the decision has been issued unanimously with the disagreement of one member as far as it regarding the articles (12 and 16) of the law, this decision was issued final according to the provision of article (94) of the constitution and article (5) of the F.S.C. law No.(30) for 2005, therefore, re-considering the mentioned original lawsuit and it unified lawsuits is pointless as it already has been adjudicated in it subject according to the provision of article (105) of the law of evidence No.(107) for 1979, therefore the court decided to reject the case from this aspect, and to burden both parties the expenses and the advocacy fees of his agent because this third case was filed before issuing a decision in the lawsuit (103/federal/2019), this decision has been issued unanimously and final according to the provision of article (94) of the constitution and article (5) of the F.S.C. law on 18/11/2019.

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