

Republic of Iraq
Federal Supreme Court
Ref. 101 /federal/2019



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 16/12/2019 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 plaintiff:

1. Shorouk Tawfiq Abd Al-Hamid Al-Abaiji
 2. Amir Karim Ghaith Al-Dami
- } Their agent the attorney
Muhamed Ali Muhamed

The defendant:

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.

The claim:

The agents of the plaintiffs claimed in the case petition that the I.C.R. did not adhere to the publicity of the sessions, as he did not broadcast them to the public directly but at a later time after being subjected to covering, censorship and cutting, which itself is violation to the Iraqi republic constitution of 2005 that stipulated in



article (53/ First: sessions of the Council of Representatives shall be public unless, for reasons of necessity, the Council decides otherwise. Second: minutes of the sessions shall be published by means considered appropriate by the Council.), according to what stipulated in the text of article (49/1st) of the constitution the I.C.R. the I.C.R. is obligated to work under the supervision of the people that elected it to be able to hold it accountable when the next elections are held, this accountability requires transparency in its work, also this accountability was decided in the constitution in more than article including what was mentioned, also this text obligates the presidency of the I.C.R. to announce every activity it comet throw it official website or any other media, weather approving the laws, taking any decision or even it general activity so that the people examine it, this direction was reinforced by the text of article (29) of its Bylaw which stipulated that (the records of the sessions must be published through the available media to the public, and the sessions should be public and accessible to the people, unless necessary otherwise), the blocking is done either at the request of the session's president, the presidency of the council, the prime minister, or request from (35) deputies, however the request must be presented to a vote of the members of the council and that it obtain the majority of the votes of those present, the estimated court has already ruled in decision No.(38 with it unifies/ federal/2016) on 28/6/2016 the nullification of the I.C.R. session

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with regard to the fact that it was not public because the doors of the hall were closed, which prevented members of the I.C.R. from entering, and this made the session not public, for the aforementioned the agent of the plaintiffs requested the F.S.C. to (rule to oblige the I.C.R. to publish it session according to what decided in the constitution article (53) of it, and to rule the unconstitutionality of the previous sessions of the I.C.R. and what resulted from it of laws). After informing the defendant with the case petition his agents responded with the answering draft dated on (22/9/2019) stating that the I.C.R. adhere to the constitutional provisions regard publishing the records of the sessions by the media that it sees appropriate, its meetings are public unless deems otherwise, also the available media was not listed exclusively, but rather according to the council's discretion as it deems appropriate in accordance with the provisions of the constitution and the Bylaw, the council publishes it agenda and the session minutes on the official website of the council also the attendance of the press and the television channels as for the blocking that is up to the estimation power of the I.C.R. mentioned by the constitution and the law, as for the supervision of the people on the work of his representatives in the I.C.R., that is represented in the jurisdictions of the F.S.C. of monitoring the constitutionality of the Laws and also there are the civilian organizations and else, for the aforementioned the agents of the defendants requested to reject the

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case for the mentioned seasons. After completing the required procedures according to the F.S.C. Bylaw No.(1) for 2005 the date 16/12/2019 was scheduled for the argument, the court convened and call upon the parties, the attorney Muhamed Ali Muhamed attended for the plaintiffs, Mr. Salim Taha Yasein attended as agent for the defendant and continue with the argument in presence and public, the agent of the plaintiffs repeated the case petition and requested to judge according to it, the agent of the defendant repeated the answering draft and requested to reject the case for the reasons listed in it. During scrutiny the court found that the case is completed for reasons of judgment and decided to close the argument, and issued the following decision publicly in the session.

The decision:

During scrutiny and deliberation by the F.S.C. the court found that the plaintiffs agents has claimed in the case petition that the I.C.R. did not adhere to the publicity of the sessions, and it did not broadcast them to the public directly throw the audio-visual media, but at a later time after being subjected to covering, censorship and cutting, which violates the provisions of article (53) of the constitution and article (49/1st) of it, and also violates the provision of article (29) of the I.C.R. Bylaw, the plaintiffs quoted the decision of the F.S.C. No.(38 with its unifies/federal/2016) as the Court annulled a session of the I.C.R. because it wasn't public because the doors of the hall were closed, which prevented members of the

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I.C.R. from entering, they requested to oblige the I.C.R. to publish it session according to what decided in the constitutional article (53), and to rule the unconstitutionality of the sessions of the I.C.R. and what resulted from it of laws. The defendant the speaker of the I.C.R. being in this post responded stating that the I.C.R. adhere to the constitutional provisions regard publishing the records of it sessions by the media that it sees appropriate and public unless deems otherwise, also the available media was not listed exclusively, but rather under the council's discretion as it deems appropriate in accordance with the provisions of the constitution and the Bylaw, in addition the council publishes it agenda and the session minutes on the official website of the council regularly, also the attendance of the press and the television channels a way is available for all to broadcast the proceedings of the sessions, just as the presence of the media center in the parliament building is another method serve the publicity aspect, as for the blocking the constitution has set it up to the estimation of the I.C.R., and the proses of enacting the laws is submitted to the supervision of the F.S.C. when been challenged for unconstitutionality, he requested to reject the case. Throw extrapolation and analyzing article (53) of the constitution in its two paragraphs, it has stipulated the principle of session publicity unless for reasons of necessity the Council decides otherwise, with binding to publish the minutes of the sessions by means considered appropriate by the Council, from the aforementioned the F.S.C. finds that what is happening in the I.C.R. in this regard doesn't violate the provision of article (53) of the constitution because the minutes of it sessions are published in the media also it agenda in addition to publishing it in it official

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website, and if some of it get blocked that is what the constitution has stipulated in the mentioned article. Therefore the plaintiffs lawsuit lack it substantiation from reality, constitutional, and law, accordingly the court decided to reject it and to burden them the expenses and advocacy fees for the agents of the defendant amount of one hundred thousand Iraqi dinars. The 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 No.(30) for 2005 and issued publicly on 16/12/2019.