

Republic of Iraq
Federal Supreme Court
Ref. 241 / federal /2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 27/12/2022 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, Dyar Mohammed Ali, and Munthir Ibrahim Hussein who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Fadhil Abbas Muhsin – his agents the barristers Mohammed Majeed Al-Saidi and Ahmed Mazin Makkiya.

The Defendants: 1. The Speaker of the ICR/ being in this capacity – his agents the legal counselor Haytham Majid Salim and the official jurist Saman Muhsin Ibrahim.

2. The Prime Minister/ being in this capacity – his agent the legal counselor Hayder Ali Jaber.

3. Head of Iraqi Media Network/ being in this capacity – his agents are the Director of legal affairs Omar Jawad Khadhim and the official jurist Ali Fakhir Hasan.

The Claim

The plaintiff claimed through his agent that the Supreme Administrative Court issued its decision No. (2196) on 15/6/2022 approving the decision of the Employees Justice Court to dismiss the appeal submitted by him regarding the termination of his assignment from the presidency of the Iraqi Media Network (incumbent) due to the lack of a legal basis for the appeal, and since the origin of the appointment to the position of head of the Iraqi Media Network is the

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vote of the Board of Trustees who take their membership in the Council according to the vote of the Council of Representatives, and that the Council of Ministers issued its decision No. (381) of 2019 assigning each of (Abdul Karim Jassim Shamkhi, Mohammed Salam Al-Qaisi, Jaafar Mohammed and Nan Jassim, Alaa Hadi Abboud, Marilyn Awish Hormuz Sawa) as members of the Board of Trustees of the Iraqi Media Network, and the Council of Representatives approved their appointment in the session numbered (40) for the year 2021, and since the decision of the Council of Ministers is contrary to Article (58) of the Budget Law for the year 2019, which confirmed the termination of the work of the agency no later than 30/6/2019, and considered any action carried out by the taxpayer after this date null and void, in addition to violating the law of the Council of Representatives and its formations, which Article (44/2nd) of which specified the period for approving the recommendation for appointment, which is six months at the latest. Cases and the recommendation thereafter shall be canceled except by a new recommendation, In addition to the invalidity of the convening of the session of the Council of Representatives, because the subject was not included in its agenda and the quorum for it was not completed following the provisions of the rules of procedure of the Council of Representatives, Article (37/2nd) thereof, so the plaintiff asked this court to rule on the unconstitutionality of the Council of Ministers Resolution No. (381/2019) and the invalidity of the convening of the Council of Representatives session No. (40/2021), and to rule that all the legal effects that resulted from the contested decisions and the decisions of the aforementioned session of the Council of Representatives are invalid and download Defendants Fees, Expenses, and advocacy fees. The case was registered with this court with the number (241/Federal/2022). The legal fee was collected based on the provisions of Article (21/1st) of the

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Rules of Procedure of the Federal Supreme Court No. (1) of 2022, and the defendants are informed of its petition and documents following the provisions of item (2nd) of the same article, and the first defendant's agent responded with the reply list dated 13/11/2022, and the second defendant's agent answered the reply list dated 14/11/2022, and the third defendant responded with the two response lists dated 16 and 23/11/2022, and all these regulations included formal and substantive defenses. Detailing what has been stated in the list of agents of the second defendant that the plaintiff is not in the interest to appeal the decision of the Council of Ministers, as well as what was stated in the list of the third defendant's attorney that there is no interest to challenge the session of the Council of Representatives following the conditions stipulated in Article (21) of the Court's Rules of Procedure, and the defendants' attorneys concluded that each of them requested to dismiss the lawsuit from their clients and bear the plaintiff's expenses. After the completion of the procedures provided for in the aforementioned rules of procedure of the Court, a date for the pleadings has been set in accordance with Article (21/3rd) thereof, and the parties shall be informed of it. On the appointed day, the court was formed, and the plaintiff and his attorney (Ahmed Mazen Makiya) attended, and the first defendant attended the legal counselor (Haitham Majed Salem), and the second defendant attended the legal counselor (Haider Ali Jaber), and the third defendant attended his agents, the Director of Legal Affairs (Omar Jawad Kazim) and the official jurist (Ali Fakher Hassan), the plaintiff and his agent repeated what was stated in the lawsuit petition and requested a ruling according to it, and he showed the court a list that was linked within the lawsuit papers, the agents of the first, second and third defendants responded, and each of them repeated what was stated in his response list linked to the lawsuit papers, and each of them

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requested the dismissal of the lawsuit for the reasons stated therein, and the representative of each party repeated his previous statements and requests, and since there was nothing left to say, the of the argument has been made clear, and the court issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff requested, through his agents, to rule on the unconstitutionality of the Council of Ministers Resolution No. (381 of 2019) containing the recommendation to the Council of Representatives to appoint the members of the Board of Trustees of the Iraqi Media Network whose names are mentioned in the aforementioned decision, and to rule that the convening of the session of the Council of Representatives No. (40 of 2021) is invalid, and to rule that all the legal effects of the contested decisions and the legal effects of the decisions of session No. (40 of the year are invalid). 2021) and charging the defendants fees, expenses, and advocacy fees, the court found through reviewing the lawsuit file and the requests and defenses submitted by the defendants' attorneys that they had all requested the dismissal of the lawsuit for several reasons, including the failure to achieve the legitimate interest of the plaintiff from filing the lawsuit, and since the plaintiff's attorney, in his regulations dated 5/12/2022, confirmed that his client's lawsuit focuses on challenging the decision of the Council of Ministers to appoint members of the Board of Trustees of the network and not on the decision of the Board of Trustees to exempt his client, and thus there is no longer an interest for the plaintiff from the establishment of Case Whereas Article (20) of the Rules of Procedure of this Court No. (1) of 2022 stipulated that the plaintiff must have a case,

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direct and influential interest in his legal, financial, or social position and that it is available from the filing of the lawsuit until the issuance of the judgment thereon, and therefore the plaintiff's lawsuit is subject to dismissal. Accordingly, the Federal Supreme Court decided to dismiss the plaintiff's lawsuit Fadl Abbas Mohsen and to charge him the fees, expenses, and attorney's fees of the defendant's agents, the Speaker of the Council of Representatives, the Prime Minister, and the head of the Iraqi Media Network, in addition to their jobs, the legal advisor Haitham Majid Salem, the human rights employee Saman Mohsen Ibrahim, the legal advisor Haidar Ali Jaber, the director of legal affairs in the Iraqi Media Network, Omar Jawad Kazim, and the human rights employee Ali Fakher Hassan, an amount of one hundred thousand dinars to be distributed among them in accordance with the law. The decision has been issued unanimously, final, and binding for all authorities according to the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been made clear on dated 3/Jamada Al-Akhir/1444 Hijri coinciding 27/December/2022 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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