

(Translated from Arabic)  
IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq  
Federal Supreme Court  
Ref. 26/federal/2019



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 14/5/2019 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 Plaintiffs:

1. Talib Faisal Abd al-Hussein/ head of the Iraqi Athletics union.
2. Samir Sadek Khudair/ head of the Iraqi judo union.
3. Hussein Mohammed Naji/ head of the Iraqi Basketball union.
4. Ayad Najaf Elias/ head of the Iraqi
5. Mushtaq Hamid Abd Allah/ head of the Olympic committee representative in Basra.
6. Khaled Abd al-Wahed Kabian/ head of the Olympic committee representative in Maysan.
7. Khalil Yassin Jaber/ head of the Olympic committee in Baghdad.
8. Sabah Hassan Shri/ vice-president of the Iraqi Boxing union.

Their agents the attorneys:  
Dr. Wael Abd al-Latif  
and Hussain Fahm Al  
Shamkhi.

The Defendant:

1. Raad Hamoudi Salman/ head of the Olympic committee.
2. Raad Hamoudi Salman/ head of the Olympic committee/ being in this post.

} His agents the attorneys:  
Naeem Jassim Al – Badri  
and Laith Kheder Jassim

The Third Party: Minister of Youth and Sports/ being in this post-  
his agent the legal officer Amjad Mehdi Nahoo and  
Leith Hazem Abd al-Rahman.

The Claim:

The agents of the Plaintiffs claimed that the National Olympic Committee was dissolved by the legislative order No(2) for 2003 among other dissolved entities by the same order, because the former Iraqi regime used these entities as tools to persecute the people, torture and suppress their members and spread corruption in their ranks. The F.S.C. has confirmed that by its decision No(144/federal/2017), which mentioned that ((where it possible to re-establish the Iraqi Olympic Committee in accordance with new frameworks in line with the democratic approach formed in Iraq after the fall of the regime, in accordance with the provisions of the International Olympic Charter for the purpose of enacting a law for the Iraqi National Olympic Committee to ensure the consolidation of the legal basis for sports activities in Iraq)). As the defendant has held (the elections of the National Olympic Committee) on 16/2/2019, before enacting specific law for the Olympic Committee, and that the election was held under the supervision of (the director of legal department) in the Olympic Committee. And he Olympic

Committee has not committed to the implementation of all what was determined in the guidance of the international Olympic committee, which was notified to it under its information message sent to it on 2017, which considered as (a road map) to end the situation and the legal gap, these letters bind the defendant to ((cooperate with official government institutions (the Ministry of Youth and Sports- the third party) in order to (complete the enacting of new law for it, after which the elections could be held and this was not achieved, as the elections for the Olympic Committee are preceded by the elections of the plaintiffs (the sports unions) and these should be based on the elections of the sports clubs in Iraq. The elections are starting at the base (the sports clubs) then (the sports unions) and finally (the elections of the National Olympic Committee) with the availability of (the new legal legislation). And that the (Iraqi Olympic Committee) has filed (a bill) of its own to (the International Olympic Committee) in Switzerland before the completion of the constitutional procedures in its ratification ignoring the Iraqi national legislation as well as the sports reference represented by the third party (the Ministry of Youth and Sports). For all the reasons that has been listed the agents of the plaintiffs requested to ((repeal the ongoing elections by the Iraqi Olympic Committee on 16/2/2019, and to repeal all related outputs implications and all previous actions of the mentioned Committee)). The agents of the second defendant (head of the Iraqi Olympic committee/ being in this post) respond to the case petition by the following:

1. Formally, the Olympic Committee is an (independent and non-governmental legal entity), thus the consideration in this case (qualitatively) is out of the F.S.C. authority that is stipulated in its law No.(30) for 2005.

2. Objectively, there is hesitating in the defendant's identification by the plaintiffs agents once mentioned as (head of the Iraqi Olympic committee in his personal capacity), and another mentioned as (head of the Iraqi Olympic committee/ being in this post), therefore the agents of the defendant requested the agents of the plaintiffs to limit their claim so they would answer what they are asked for during the argument sessions, the agents of the defendant (2) also requested to (reject the case formally, as the court lack the jurisdiction qualitatively to consider this case). The agents of the third party (Ministry of Youth and Sports /being in this post) responded to the case petition with the following:

- 1- the Iraqi National Olympic Committee is part of the dissolved entities according to the legislative order No.(2) on 27/June/2003.
- 2- The F.S.C. has already decided by its decision No.(144/federal /2017) that (where it is possible to re-establish the Iraqi Olympic Committee according to new orders in line with the International Olympic Charter).
- 3- Issuance of the Law No.(21) for 2005 ((the law of managing the funds belonging to dissolved entities)), and the instructions No.(1) for 2009 (instructions to facilitate the implementation of the provisions of the law of managing the funds belonging to dissolved entities No.(21) for 2005, where (the national committee of the Olympic games) according to article (1/11<sup>th</sup>/Waw) of the mentioned instructions from the dissolved entities.
- 4- The Ministry of Youth and Sports in accordance with article (2/2<sup>nd</sup>) of its law No.(25) for 2017 has confirmed that it is (the superior governmental party that concerned with the youth and sport sector for all of Iraq, and it is responsible for the development and follow-up of the implementation of youth and sports policy in it, in accordance with the official instructions in this regard, where their

client's department was not notified or informed , or obtaining the fundamental approvals to conduct the elections referred to in the case petition.

- 5- The elections conducted by the dissolved (Iraqi National Olympic Committee) came in violation of the law, as the law of (the Iraqi National Olympic Committee No.(2) for 1986) is invalid, on the grounds that the committee is one of the dissolved entities referred to in the legislative order No.(2) for 2003, and the new law draft is presented before the State Consultative Council according to the provisions of article (13) of the State Council law No.(65) for 1979, where they were addressed by the President of the Council of State under their letter No.(4820)dated on 7/2/2019 for the purpose of issue an opinion about the bill of the Iraqi National Olympic committee.
- 6- The Department of their client has filed the case No.(1178/Beh /2019) before the Karrada Court of first instance to challenge the elections held by the Iraqi National Olympic Committee, in violation to the law and it still pending before the judiciary.
- 7- The issuance of the Council of Ministers decision No.(60) for 2019, which included in the paragraph (21) of it (forming a committee from the representative of the Ministry of Youth and Sports, the federal financial supervision divan, and the Iraqi National Olympic Committee, for the purpose of managing the allocated grants).

For all that the agents of the third party requested to ((repeal the elections that held by the Olympic Committee in violation to the law)). After submitting the case according to the provisions of paragraph (3<sup>rd</sup>) of article (1) of the F.S.C. Bylaw No.(1) for 2005, and completing the required procedure according to the provisions of paragraph (2) of the mentioned bylaw, the date 14/5/2019 was set to proceed with the case. the court convened and the agent of the

plaintiffs the attorney (Hussain Fahm Al-Shamkhi) has attended, and attend for the defendant (Raad Hamoudi Salman head of the Olympic committee, and Raad Hamoudi Salman head of the Olympic committee/ being in this post) the attorneys Naeem Jassim Al-Badri and Laith Kheder Jassim, also attend for the third party the Minister of Youth MR. (Amjad Mehdi) and MR. (Leith Hazem), and proceed with the case in presence and publicly, the agent of the plaintiffs repeated the case petition and requested to judge according to it requesting to repeal the elections of the Olympic committee, and submitted a complimentary draft for the case which was linked to the case file, the agent of the defendant repeated what listed in the answering draft dated, and requested to reject the case because the court lack the functional jurisdiction, the third party answered by his agent that he repeats the answering draft and requesting for repealing the election and their consequences. The court scrutinize the case petition and the requests included in it and found that it is completed for the reasons of judgment, the argument has been closed and the decision is issued publicly in the session.

### The Decision:

After scrutiny and deliberation by the F.S.C., the court found that the agents of the plaintiffs has been claiming in their case petition that the ((national Olympic committee)) was dissolved among other dissolved entities by the legislative order No.(2) on 27/June/2003 issued by the Coalition Provisional Authority in Iraq, because the former Iraqi regime used these entities as tools to persecute the people, torture and suppress their members and spread corruption in their ranks. Whereas the defendant has conduct the election of the national Olympic committee on 16/2/2019 before enacting specific

law for it, which was confirmed by the F.S.C. in its decision No.(144/federal/2017), which include that ((it is possible to re-establish the Iraqi Olympic Committee in accordance with new frameworks in line with the democratic approach formed in Iraq after the fall of the regime, in accordance with the provisions of the International Olympic Charter...)), for the aforementioned and for what listed in the case petition of other reasons, the agents of the plaintiffs requested to ((repeal the ongoing elections on 16/2/2019 by the defendant, and to repeal all related outputs implications and all previous actions and to burden him the expenses and advocacy fees)). The F.S.C. finds that its jurisdictions are specified by the article (93) of the constitution and article (4) of its law No.(30) for 2005, which do not include the repealing of the elections conducted by unions, committees and sports bodies, including the ongoing elections by the defendant (the Iraqi national Olympic committee) on 16/2/2019. Therefore the F.S.C. decided to reject the case formally from the point of jurisdiction, and to burden the plaintiffs amount of one hundred thousand Iraqi dinars as advocacy fees for the agents of the defendant, and the third party agents, divide by them according to the law. The decision has been issued decisively and unanimously according to article (94) of the Constitution, and article (5) of the F.S.C. law No.(30) for 2005, and issued publicly on 14/5/2019.