

Republic of Iraq
Federal Supreme Court
Ref 301/ federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 22/1/2024 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, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

Plaintiff: Hayder Mohammed Habeb Majeed AL-Salami – his agents the barristers /Abas Ali jassim and Ali Kamil Rasool .

Defendants: Head of the Iraqi Council of Representatives / in addition to his job - His agents The Director General of the Department of Legal Affairs Sabah Juma Al-Bawi and human rights employees Saman Mohsen Ibrahim and Aseel Samir Rahman.

The Claim:

The plaintiff claimed through his agent that based on the decision of the Federal Supreme Court No. (9/Federal/2023) containing termination of the membership of the Speaker of the Council of Representatives (Muhammad Rikan Al-Halbousi) starting from the date of issuance of the judgment on 14/11/2023, the General Secretariat of the Council of Representatives / Parliamentary Affairs Department issued a parliamentary order No. (308) on 20/11/2023 terminating the membership of the referred to in the Council of Representatives starting from 14/11/2023, in application of the provisions of Article (12/3rd) of the rules of procedure of the Council of Representatives, which stipulate (if the position of the Speaker of the Council or any of his deputies

Zainab



becomes vacant for any reason, the Council shall be elected by an absolute majority as his successor in the first session held to fill the vacancy in accordance with the controls of political balances between the blocs), whereas the decision to terminate the membership of the Speaker of the Council of Representatives was issued during the legislative recess of the Council, and the Council was to proceed with the election of its Speaker in the first session held during the beginning of the legislative term, or in an extraordinary emergency session in the form prescribed by law to be held for this purpose only, and no person, whether a member of the Council or the First Deputy has the right to initiate an extraordinary session for other purposes, He presides over the meetings of the Council based on the provisions of Article (35/I) of the Rules of Procedure, which stipulates that (The First Deputy shall exercise the following functions: A- Perform the functions of the Chairman of the Council in his absence or inability to perform those tasks is a legal term that refers to the absence of a member with full legal and constitutional power, the Council of Representatives held an extraordinary session for the fifth electoral cycle at the request of (50 members) to amend the Independent High Electoral Commission Law No. (31) of 2019 on Saturday 18/11/2023 to complete the Council's legislative and oversight tasks, and the Council's agenda was issued in the extraordinary session on 22/11/2023 that includes two items, the first: the election of the Speaker of the Council of Representatives, and the second: voting on the proposed law amending the Independent High Electoral Commission Law No. (31) of 2019, accordingly, it is not permissible to discuss any other subject outside what is stated in the request for extraordinary convening in accordance with Article (28), which stipulates (the President of the Republic, the Prime Minister, the Speaker of the Council of Representatives, or fifty members of the

Zainab

Republic of Iraq
Federal Supreme Court
Ref 301/ federal /2023



Kurdish text

Council of Representatives may summon the Council to convene in an extraordinary session, provided that the meeting is limited to considering the topics specified in the invitation), this condition is limited to extraordinary sessions and is not covered by the text of Article (37/1st and 2nd), which limited its scope to regular sessions, and thus the addition contained in (first) of the agenda of the extraordinary session of the Council on 22/11/2023 shall be contrary to the law and invalid, It may not have any legal effect, as the reason for postponing the election of the Speaker of the Council of Representatives lies in the attempt to achieve political balance based on Article (12/3rd) of the Rules of Procedure, in addition to the decision of the Federal Supreme Court No. (9/Federal/2009) on 5/2/2009, Therefore, the plaintiff took the initiative to challenge the outcomes of the extraordinary sessions of the (5th) session held on 18 and 22/11/2023, considering them invalid and charging the defendant with fees, expenses and attorney's fees. After registering the case with this court No. (301/Federal/2023), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1st and 2nd) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, his agent answered the reply dated 13/12/2023 and its conclusion: The extraordinary session of the Council of Representatives on 18 and 22/11/2023 was held in accordance with the provisions of the Constitution, the Law of the Council of Representatives and its formations No. (13) of 2018, and the rules of procedure of the Council and fulfilled the procedural formality required in the requests for holding the two sessions, a request was submitted to hold them through the number specified by the Constitution, the law and the rules of procedure, and the binding provisions and requirements for holding them were met in the session by the Council of Representatives in

Zainab



accordance with the legislation in force, The Court has previously stated its opinion that the Council of Representatives should proceed with the election of its President in the first session following the vacancy of office, by virtue of its decision No. (9/Federal/2009), whereas the Council of Representatives has commenced the procedures for electing a Speaker and included the paragraph of the election of the President on the agenda, and then the Council responded to requests submitted to it regarding the postponement of the election of the president for political reasons, Article (12/3rd) of the Rules of Procedure of the Council of Representatives clearly states that (if the position of the Speaker of the Council or any of his deputies becomes vacant for any reason, the Council shall be elected by an absolute majority as a successor in the first session held to fill the vacancy in accordance with the controls of political balances between the blocs), and when it didn't come true the controls of political balances or did not help to agree on who occupies the position of Speaker of the Council of Representatives was one of the requirements for that he requested the adjournment of the hearing, so he requested to dismiss the lawsuit and charge the plaintiff expenses, fees and attorney's fees. After completing the procedures required by the Court's Rules of Procedure, a date has been set for the pleading in accordance with Article (21/3rd) thereof, The parties were informed of it, and the court was formed, so the plaintiff's agents attended, and the defendant's two agents, the official jurists Saman Mohsen Ibrahim and Aseel Samir Rahman attended on behalf of the defendant, and the public in presence argument proceeded, after the court heard their statements and requests, the end of the argument has been made clear and the court issued the following decision:

Zainab

Republic of Iraq
Federal Supreme Court
Ref 301/ federal /2023



Kurdish text

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that the plaintiff filed a lawsuit before this court against the defendant Speaker of the Council of Representatives / in addition to his job to claim the invalidity of the outputs of the extraordinary sessions of the (5th) session held on 18 and 22/11/2023, including amending the Independent High Electoral Commission Law No. (31) of 2019 on the basis of its violation of the Council of Representatives Law and its formations No. (13) of 2018, and the Rules of Procedure of the Council of Representatives No. (1) of 2022 and the decisions issued by the Federal Supreme Court in this regard numbered (9/Federal/2023) dated 14/11/2023 and (9/Federal/2009) dated 4 and 5/2/2009, which constitutes a violation of the constitution, and holds the defendant in addition to his job fees, expenses and attorney's fees, and this court finds that the plaintiff's claim for the invalidity of the outputs of the session of the Council of Representatives, including the law amending the Independent High Electoral Commission Law No. (31) of 2019 to challenge the constitutionality of Amendment law on the basis of the invalidity of the session of the Council of Representatives in which the adoption of the amendment law and a vote on it took place based on the provisions of Article (93/1st) of the Constitution of the Republic of Iraq for the year 2005, The plaintiff's claim is therefore subject to dismissal; due to the lack of requirements for its establishment, including the interest in application of the provisions of Article (20) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, which stipulated requirements for accepting the constitutional lawsuit embodied in the plaintiff in the subject matter of the lawsuit a situational, direct and influential interest in his legal, financial or social status, Provided that it is available

Zainab

Republic of Iraq
Federal Supreme Court
Ref 301/ federal /2023



Kurdish text

initially at the time of filing the lawsuit until the judgment is rendered thereon, and that the impugned text has actually been applied to the plaintiff, and that the plaintiff has not benefited of the contested text in whole or in part, and because the plaintiff's interest is not available when filing the lawsuit, which necessitates its dismissal, in view of the foregoing, the Federal Supreme Court decided as follows:

First: Dismissing the plaintiff Haider Mohammed Habib Majeed Al-Salami's lawsuit for not fulfilling the interest condition when it was filed.

Second: The plaintiff shall charge the fees, expenses and attorney fees of the defendant's attorneys / being in this capacity an amount of one hundred thousand dinars distributed in accordance with the law.

The decision has been issued unanimously according to the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (4 and 5/2nd) of the Federal Supreme Court Law No. (30) of 2005, as amended by law No.(25) of 2021. The decision has been made clear on 10/Rajab/1445 Hijri Corresponding to 22/January/2024 AD.

Judge
Jasem Mohammad Abboud
President of the Federal Supreme Court

Zainab