

In the name of God most Gracious most Merciful

Republic of Iraq  
Federal Supreme Court  
Ref. 3/federal/custodian order/2022



Kurdish text

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The Federal Supreme Court (F.S.C.) has been convened on 6.2.2022 headed by Judge Jasem Mohammad Abod and the membership of the judges Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, Adel Abdul Razzaq Abbas, Khaled Taha Ahmed and Munther Ibrahim Hussein who are authorized to judge in the name of the people, they made the following decision:

The Requester for the Custodian Order issuing: Members of the Iraqi Council of Representatives

- |                          |   |  |
|--------------------------|---|--|
| 1- Ali Turki Jassum      | } | their attorney, Dr. Walid Kased Yasser |
| 2- Dylan Ghafoor Saleh   |   |  |
| 3- Karwan Ali Yaroos     |   |  |
| 4- Karim Shakur Muhammad |   |  |

The Requested for the Custodian Order to issuing (agents him):

The Speaker of the Council of Representatives/being in his capacity.

### The Request:

The applicants for the issuance of the custodian order claimed through their agent that he had previously announced what is required to be issued the custodian order against him on 31/1/2022 a list of the names of candidates for the position of President of the Republic of Iraq. And after they submitted to this court the case numbered (17/federal/2022) on 2/2/2022, they found that the procedures of the Council of Representatives regarding the acceptance of the candidate (Hashyar Mahmoud Muhammad) violate the provisions of the constitution and represent a grave breach of the provisions contained therein, as the accusations against him do not apply to him. Conditions mentioned in Article (68/3<sup>rd</sup>) of the Constitution of the Republic of Iraq for the year 2005. Accordingly, and because of the foregoing, and in view of setting 7/2/2022 as the date for the election of the president, they asked the FSC to issue a custodian order to stop the procedures for which the custodian order is required to be issued, related to the election of the President of the Republic, based on Articles (151-152) of the Civil Procedures Law No. (83) of 1969, as amended, and until the aforementioned lawsuit is decided upon, in an urgent manner, in order to remedy the negative results that the election of the President of the Republic may lead to, in accordance with the current procedures.

### The Decision:

The FSC finds that the applicants for the issuance of the custodian order filed the lawsuit in No. (17/federal/2022) before this court, arguing against the defendant, the Speaker of the Council of Representatives / being in his capacity, and requesting that the decision to accept the nomination of Mr. Hashyar Mahmoud Muhammad Zebari for the position of President of the Republic was unconstitutional, due to his lack of conditions the candidacy stipulated in Article (68) of the Constitution of

the Republic of Iraq for the year 2005 for the following reasons mentioned in their lawsuit:

1. The explicit violation and constitutional violation of the policeman of good reputation and integrity stipulated in article (68/3<sup>rd</sup>) of the Constitution, as Mr. Hashyar Mahmoud Muhammad Zebari had previously been interrogated by the Iraqi Council of Representatives on accusations of financial and administrative corruption in the session No. (14) on 25/8/2016, and a vote was taken of not being satisfied with his answers in the session No. (15) on 27/8/2016, and confidence in him was withdrawn by a decision of the Council of Representatives in the session No. (17) on 21/9/2016, and the decision to withdraw confidence was due to the presence of accusations related to financial and administrative corruption.
2. The existence of cases concerning the deceased in the Integrity Investigation Court in Karkh, including the case numbered (98/Qaf/2018) when he was Minister of Foreign Affairs and did not appear before the competent court according to the letter of the Second Integrity Investigation Court No. (300) on 1/2/2022 and the existence of a case Another investigation concerning the accused is currently under consideration in the Integrity Investigation Court in Rusafa, for his abuse of his influence and authority by spending large sums of money on real estate that does not belong to the state. The aforementioned candidate has also been issued two decisions by the Integrity Investigation Court in Rusafa, including him for the damages he inflicted on public money.
3. The defendant violated the provisions of Article (1/3<sup>rd</sup>) of the provisions of the Presidential Nomination Law No. (8) of 2012, which is considered the procedural law stipulated in the Constitution that determines the conditions for a candidate to occupy the position that he has a good reputation and political experience and is known for his integrity and uprightness.

4. Implicit violation of the Parliament's decision to accept the nomination for the duties entrusted to the candidate in the event of his election to this position stipulated in Article (50) of the Constitution, which (obligates the elected President of the Republic to perform his legal duties and responsibilities with dedication and sincerity, to ensure the safety of his wealth and to abide by the implementation of legislation honestly and impartially).

5. The decision to accept Hashyar Zebari's candidacy can be guaranteed, followed up, clear, and their follow-up No. (13) for the year 2018. The internal available within it, include the following:

Requesting information and documents from any official body on any issue related to the public interest, the rights of citizens, or the implementation or application of laws from the executive authority institutions and independent bodies. Accordingly, the FSC finds, and after reviewing the facts and attached documents, that the nomination of Hashyar Mahmoud Muhammad for the position of President of the Republic and its presentation to the Council of Representatives for a vote depends on the outcome of resolving the lawsuit filed before this court in No. (17/federal/2022), so the FSC decided to stop the procedures the election of (Hashyar Mahmoud Muhammad Zebari) to the position of the President of the Republic temporarily until the case is resolved (17/federal/2022), and the decision was issued by a majority on 4/Rajab/1443 coinciding with 6/February/ 2022.

Signature of  
The president

**Jasem Mohammad  
Abod**

Signature of  
The member

**Haidar Jaber Abed**

Signature of  
The member

**Haider Ali Noory**

Signature of  
The member

**Khalaf Ahmad Rajab**

Signature of  
The member

**Ayoub Abbas Salih**

Signature of  
The member

**Abdul Rahman  
Suleiman Ali**

Signature of  
The member

**Adel Abdul Razzaq  
Abbas**

Signature of  
The member

**Khaled Taha Ahmed**

Signature of  
The member

**Munther Ibrahim  
Hussein**