

Republic of Iraq
Federal Supreme Court
Ref. 40 / federal /2020



Kurdish text

The Federal Supreme Court (F S C) has been convened on 23/6/2021 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jabir Abid, Hayder Ali Noori, Khaled Ahmed Rajab, Ayoob Abbas Salah, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who authorized in the name of the people to judge and they made the following decision:

The Plaintiffs: 1. Hussein Jabbar Lazim. } Being in their capacity/ their
2. Saadoun Khalaf Hassoun. } Agent the barristers Baqir
3. Hasan Hamza Salih. } Jaber Ibrahim and Mahdi
Saeed Thajeel.

The defendants: 1. Chairman of a committee that conducts the work of the Department of Political Parties and Organizations/ being in this capacity – his agent the official jurist Ali Hussein Aliwe.
2. Ahmed Khadhim Al-Saidi/ secretary general Hezbollah / Iraq/ being in this capacity – his agents the official jurists Mohammed Farhan Al-Suaidi and Karrar Aziz Sayeb.

The Claim

The plaintiff claimed in the petition that the first defendant issued his decision under his numbered book (Shin.Ha/Kha/688 on September 20, 2020), which included the plaintiffs' response to the plaintiffs' complaint about the minutes of the election (the second defendant in addition to his job/Secretary General of Hezbollah Iraq/Iraq Branch) under the election record in number (46) on 12 August 2020. Since the election minutes were against the law, the plaintiffs appealed to the Federal Supreme Court, asking that all legal proceedings, including the election minutes of 12 August 2020, numbered 46, be annulled, as well as the decision to dismiss the complaint of the first defendant... For the following reasons:

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1. When referring to the text of paragraph (5) received (exclusively in the event of the death of the Secretary-General, the Secretariat and the Political Bureau meet within (30) days to elect a new Secretary-General) and since the election minutes exceeded the period set in the text of the paragraph above, where the second defendant was elected 12 August 2020, contrary to the text mentioned, as the date of the death of the former Secretary-General on 19 June 2020 and since the specified period is (inevitable periods that should not be exceeded) The Deputy Secretary-General continued his powers until 12 August 2020.
2. When referring to the party's rules of procedure in the event of an emergency or change of the secretary-general or his deputy within (30) days, however, the Deputy Secretary-General did not follow the proper legal procedures by informing the general body or the political bureau and addressing the rest of the branches and political offices of the party or notifying them of the holding of elections. Since these measures are obligatory and binding on the Deputy Secretary-General and the procedures in which the second defendant was elected were vague and vague and the offices were not not notified to the branches of the party and political offices, most members were not not notified and informed of the election or set an election date so that they could participate and discuss the ongoing elections as established in Section 5 of the rules of procedure (general conference and in paragraph 1) which stipulated (that the components of the conference should be General in their names are contained in paragraph (1) that the number of attendees should not be less than (300) members of the party. When he submitted the reasons for the prosecutor's request from the Federal Supreme Court to rule

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on (annulment of all measures taken in the election of the second defendant (Ahmed Kazem al-Saadi/ Secretary General of Hezbollah Iraq) and annulment of the decision issued by the first defendant (chairman of a committee conducting the work of the Department of Political parties and organizations/ in addition to its function) which includes the ratification of the recorded election minutes (625) dated September 3, 2020 and the order to re-elect after informing all components of the organizational structure and holding the conference in the presence of the general body and not least the number of Attendance for (300) people.). After informing the defendants of the petition, the first defendant (chairman of the committee running the department of political parties and organizations affairs) answered by the letter of the Independent High Electoral Commission/Board of Commissioners by number (Kha/11/685. On 11/11/2020) which included the following: The Federal Supreme Court has already issued the numbered decision (68/Federal/2014) which stipulates that the consideration of the validity of administrative orders and decisions is outside the jurisdiction of the Federal Supreme Court because the law drew a way to challenge it. The election of Ahmed Kazem Mohammed as secretary general of Hezbollah in Iraq was carried out in accordance with the party's rules of procedure in Title IV, Article 4, paragraph (B/3), which stipulates that the secretariat shall choose from among its members the secretary general and his deputy by an absolute majority of its members) and article (II) paragraph (1) of Title IV, which stipulates the election of the secretary general by members of the secretariat by voting (half the number of members + one) and according to the minutes of the meeting and the reasons given for

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the request for dismissal of the case because of the failure to dismiss the case for incompetence. The second defendant's agent answered under the regulations dated 19 October 2020 and 17 December 2020, in which he explained that the Secretariat meets within 30 days of the death of the Secretary-General as The date of death and the date of the meeting have exceeded 60 days and this is an explicit violation because the legal period does not allow the Deputy Secretary-General to continue running and in this case the members of the General Secretariat met to vote on the secretary general and the legal procedures were voted and according to the party's rules of procedure to elect the second defendant, and the members of the secretariat The public are the same members of the political bureau, which is what is done within the party and not as the plaintiffs claim in the petition, the General Secretariat meets and the political bureau and that the rules of procedure of the party (Title IV) (Article 1/II/1) required that the secretary-general be elected from the members of the General Secretariat (half +1) and in their presence and editorial signature to the Honorable Federal Supreme Court of his attorney Baqir Jabr al-Musawi said (however, the Deputy Secretary-General did not follow the proper legal procedures) as for the plaintiffs' claim that the general body or political bureau should be notified or address the rest of the branches of the party's offices by the election of the secretary general, the said speech is contrary to the express violation of the rules of procedure and what was referred to by the plaintiffs mentioned in the aforementioned paragraph is a requirement of the components of the general conference and not the election of the secretary general as stipulated In Title 5/1, as for the plaintiffs' claim that the political

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bureau should be invited to attend the election of the secretary, the members of the General Secretariat are themselves members of the political bureau there are no names of the political bureau in the former General Secretariat as a system in place or as a paper editor issued by names from the General Secretariat as well as no names of the political bureau in this sense confirmed in the party affairs department other than the names of the members of the General Secretariat elected by voting in the general conference, however, the vote on the election of the secretary general according to the rules of procedure is exclusively the competence of the members of the General Secretariat, and in the absence of following the prosecutor Hussein Jabbar must deputy secretary general of the aforementioned fundamentalist procedures held The General Secretariat of Hizbullah met in the number (46) on 12 August 2020 based on its tasks contained in Title IV (I-B) members of the General Secretariat paragraph (3), which states (the General Secretariat chooses from among its members the Secretary-General and his deputy by an absolute majority of its members) the secretary general is the head of the highest executive political body in the party and its representative before the judiciary and before all government agencies and is responsible for the task of general supervision and determining the strategy of the party and is elected by members of the General Secretariat by voting (half the number of members + 1) for a period of four years renewable where the quorum was completed and through which Mr. Ahmed Kazem Mohammed Al-Saadi was elected secretary general of Hizbullah Iraq to show your democratic justice practice and electoral approval of the law of parties in force in the Independent High Commission for

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Elections Department of Political Parties and Entities Affairs. For what has been submitted and for what the Honorable court considers the reasons for requesting the dismissal of the case and charging the plaintiffs expenses and fees of the lawyers. Based on the provisions of article (1/III) of the Bylaw of the Federal Supreme Court No. (1) of 2005, the petition was notified, the legal fee was fulfilled and recorded in the number (40/Federal/2020) and after completing all the procedures stipulated in article (2/first) From the rules of procedure of the Federal Supreme Court No. (1) of 2005 and based on section (II) of the same article was set on 16 June 2021 as the date of the case and the parties informed of this, in which the court was formed and the plaintiffs were brought by their attorney Mahdi Said Thagil, the first defendant, chairman of a committee that conducts the work of the Department of Political Parties and Organizations, attended his job and his agent, human rights officer Ali Hussein Aliwi, and attended for the second defendant, Ahmed Kazem Mohammed al-Saadi, secretary general of Hezbollah/Iraq, in addition to his job as his human rights agents Mohammed Farhan Al-Saidi and Karrar Aziz Saip the prosecutor reiterated the statement in the petition and requested the verdict, according to which the first defendant's agent replied in addition to his job that he was an agent of the Director General of the Department of Political Parties and Organizations affairs in addition to his job, but with regard to the committee of conducting the affairs of the Department of Political Parties and Organizations, it was completed and that the Directorate General of Party Affairs The political organizations have an independent moral personality and he requests a dismissal of the case for not directing the litigation,

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and the second defendant's agent, in addition to his job, answered the request for a dismissal of the case for the reasons contained in the answering regulations dated 17 December 2020 and 19/10/10. 2020 The prosecutor added, repeating his previous regulations, adding that article (1 paragraph B) of the members of the Secretariat referred to in paragraph (4) that the Secretary-General calls for a special session, which is considered by the rules of procedure to be obligatory and cannot be formed because Corona epidemic and the curfew was not possible for his first client Hussein Jabbar to call for the purpose of holding a special session for the purpose of selecting a secretary general after the death of the former secretary general and the powers are transferred to his deputy and the second defendant took advantage of this and called for a special session and held the hearing and nominated himself secretary general and was chosen by a fact (half + one) where the original invitation to convene and choose the secretary general of the party is the prerogative of his client the first plaintiff as he was the deputy secretary general of the party and replaces him and he filed that appeal with the department Parties affiliated with the Independent High Electoral Commission The decision was taken by the commission to reject the application and was complained by them regarding the rejection of the application and they were informed by the commission mentioned that the complaint was rejected and the decision was ratified, and his client submitted a request to the committee of the conduct of the business of the Department of Party Affairs and that it has no authority to decide the decisions of the grievance, the second defendant's agent answered repeated his arguments and requests to dismiss the case, adding that all the plaintiffs are members of Hezbollah Iraq and

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the agents of the parties repeated their requests and previous statements and where there is no remaining What is said I understand the conclusion of the case and the eye of the day 23 June 2021, the date for the verdict, in which the court was formed and issued the following decision publicly:

The decision:

Upon the scrutiny and deliberation by the Federal Supreme Court and the plaintiffs' lawsuit and the mutual regulations between the agents of the parties and their statements in the hearing, it was found that the plaintiffs are members of Hezbollah/Iraq and after the death of its Secretary-General and the vacancy of the post, the second defendant (Ahmed Kazem Mohammed al-Saadi) called a special session to elect the secretary general of the party, although as the plaintiffs' agents claim it was the prerogative of their client, the first prosecutor (Hussein Jabbar Must) as deputy secretary-general For the party, as a result, the second defendant was chosen as secretary general of the party under the minutes of the meeting numbered 46 on 12 August 2020, which was approved by the first defendant in addition to his job under the letter of his office numbered 625 on 3 September 2020, and because the procedures for electing the Secretary-General were vague and vague and the party's branches and political offices were not notified of the date of the elections so that they could participate in them contrary to the party's rules of procedure, they objected to those procedures before the First Defendant's Chamber in addition to his post, which issued his decision on 20 September 2020 under his book Number Shin. Jim/Kha/688, which included the

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restitution of the complaint, so they requested that the defendants be invited to plead and rule that all proceedings should be annulled. Taken to elect the second defendant as secretary general of the party, and the heroes of the decision of the first defendant in addition to his job to ratify the minutes elections number 625 on September 3, 2020 and the re-election. The Federal Supreme Court considers that although the court's terms of reference have been defined in article (93) of the Constitution of the Republic of Iraq of 2005 and Article (4) of the Federal Supreme Court Act No. (30) of 2005 amended by Law No. (25) For 2021, however, some legislation has provided for other terms of reference other than what was mentioned in the Constitution and its law, including article (56) of the Political Parties Act No. (36) of 2015, which states (may be challenged) Before the Federal Supreme Court in the decisions of the court of the subject concerning the dissolution of the political party or the suspension of its activity within (30) thirty days of the date of informing the political party of the decision or considering it an amount, and deciding on the appeal is urgent) article 14/IV of the same law concerning the appeal against the decision of the Party Chamber to accept or reject the application for the establishment of the party, which subjected it to appeal to the trial court, and the decisions issued by that court are subject to appeal to the Federal Supreme Court in accordance with the provisions of article (15) of the above-mentioned law, and the provisions of article (32/3) of which it (for any interest to file a complaint with the Party Chamber against any party that violated the provisions of this Law) and what is stated in article (section 32/3) of it is that (for any interest to file a complaint with the Party Chamber against any party that violates the provisions of this law) and what is stated in article (section 32/3) Fourthly, the trial court shall decide on the application submitted

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in accordance with the above paragraphs of this article within (30) thirty days of its submission and the decision of the trial court shall be appealable to the Federal Court) This means that in the event of a violation of the provisions of the Party Law by any party, the complaint must be lodged first before the Party Department and the decision of that chamber shall be appealed on the basis of a request to the trial court, which adjudicates the application within (30) thirty days of the date of its submission and that the appeal before the Federal Supreme Court is the decision of the trial court, and therefore may not appeal directly to the Federal Supreme Court the decisions of the Party Department, and is not contained within the jurisdiction of the Federal Supreme Court contained in the Constitution or its law or in the Law of Political Parties, which allows it to appeal directly to any decision or procedure provided for in that law directly, other than challenging the constitutionality of the articles of that law governed by the rules of appeal against unconstitutionality provided for in the Law of the Federal Supreme Court and its rules of procedure, and since the plaintiffs did not follow the path set by the law by submitting the appeal before the trial court within the specified period, in addition to the fact that the contested proceedings were not stipulated in the Law of Political Parties but contained in the party's rules of procedure, therefore, the consideration of the plaintiffs' requests is outside the jurisdiction of this court and their case is due to be answered From this side. For all of the above and by request, the Federal Supreme Court decided to rule on the following: First: Dismiss the plaintiffs' case Hussein Jabbar Musta and Sadoun behind Hassoun and Hassan Hamza Saleh. Second: The plaintiffs charged fees, expenses and fees for the lawyers of the first deputy prosecutor, chairman of the committee running the affairs of the Department of Political Parties

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and Organizations, in addition to his job human rights officer Ali Hussein Aliwi, and the second defendant Ahmed Kazem Mohammed al-Saadi, Secretary General of Hizbullah/Iraq, in addition to his job of human rights officers Mohammed Farhan Al-Saidi and Karrar Aziz Saip amounted to (100,000) 100,000 dinars distributed in accordance with the law, and the verdict of the agreement was issued in full and binding on the basis of the provisions of articles (93 and 94) From the Constitution of the Republic of Iraq 2005 and articles (4 and 5) of the Federal Supreme Court Act No. (30) of 2005 amended by Law No. (25) of 2021 and publicly understood on 12/Dhul Quada/1442 Hijri, 23 June 2021 AD.

Signature of The president	Signature of The member	Signature of The member
Jasem Mohammad Abbood	Sameer Abbas Mohammed	Haidar Jaber Abed
Signature of The member	Signature of The member	Signature of The member
Haider Ali Noory	Khalaf Ahmad Rajab	Abdul Rahman Suleiman Ali

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**Signature of
The member**

**Diyar Muhammad
Ali**

**Signature of
The member**

**Ghalib Amir
Shunayen**

**Signature of
The member**

Ayoob Abbas Salah