



---

The Federal Supreme Court (F.S.C.) convened on 31.8.2021 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

**The plaintiffs:**

1. Shorouq Tawfiq Abdel Hamid.
2. Sabah Abdullah Abdul Karim.

their attorneys the lawyers Basim Khazal Khashan and Ahmed Saeed Musa

**The defendant:**

The Speaker of the Iraqi Council of Representatives (I.C.R.)/ in addition to his post – his agents the legal advisor Haithem Majid Salim and the legal official Saman Muhsen Ebraheem.

**The claim:**

The plaintiffs claimed that Paragraph (2) of Article (2) of Parliament Members Replacement Law No. (6) of 2006 stipulates that the parliamentary seat allocated to the governorate in the event of a vacancy shall be replaced by the candidate of the bloc to which the member covered by the replacement belongs within his list seats

---

*Athraa*



in the governorate and is not allocated for the candidate with the highest number of votes on the list, and this contradicts the principles of democracy, Article 20 of the Constitution, and the right of voters to choose who represents them. The voter places the vote mark on the ballot paper in front of the list of his choice, according to the Saint Lego system the winning list shall have the number of seats commensurate with the votes it obtained, and that is what is stipulated in chapter two of the I.C.R. seats distributing system No. (12) for the year 2018 and the voter does not vote for a specific bloc of the blocs that make up the list, and the bloc has no place in this distribution, and the voter, after placing the voting mark in front of the list of his choice, may choose the candidate he wants from among the candidates of this list that he voted for, his vote is added to the total votes obtained by the candidate. If the candidate's list wins, its seats are allocated to the winners with the largest number of votes, regardless of the bloc to which the winning candidates belong, and this is what the second step of the mentioned seat distribution system followed. Allocating the list's seats to the candidates who won the highest votes, regardless of the bloc to which they belong, achieves the will of the voters because the voters voted for a list and a candidate and did not vote for a particular bloc within the winning list. ) A vote was assigned to him, and the only seat in the Muthanna governorate was allocated to him, regardless of the bloc to which he belonged, and his parliamentary seat became vacant due to his death. Abu Hasna), who belongs to the Dawa Party bloc to which

*Athraa*



Representative Adnan Hadi al-Asadi belongs, despite his third place in terms of the number of votes by obtaining only (3,134) votes. Violation of the right of the voters to choose their representative and based on the foregoing, the defendant was invited / in addition to his position to plead and ruled unconstitutional Paragraph (2) of Article (2) of the Law on Replacing Members of the Council of Representatives No. (6) of 2006 and based on the provisions of Article (2/Third) of the Federal Supreme Court's internal system No. (1) of 2005 The case was registered with this court in No. (42/Federal/2021) and the defendant, in addition to his post, is informed of its cross and all documents attached to it in accordance with the provisions of Article (2/First) From the aforementioned system, and his two attorneys requested the legal advisor Haitham Majed Salem and the legal employee Saman Mohsen Ibrahim with their regulations dated 06/23/2021 to reject the case for the following reasons: 1. This court had previously issued its decision No. (17/Federal/2015) on 04/14/2015, which It decides to dismiss the plaintiffs' suit, and that Paragraph (2) of Article (2) of the Law on Replacing Members of the Council of Representatives No. (6) of 2006 does not violate the provisions of the Constitution. 2. The law to replace members of the Council of Representatives, according to the reasons compelling it, has been initiated to fill the vacant seats in the Council of Representatives for any of the reasons mentioned in it. Its legislation came in accordance with the text of Article (49/5) of the Constitution and that the text under appeal came as a legislative

*Athraa*



option that does not contradict the provisions of the Constitution and there is no support from the law and the constitution for the plaintiffs' suit. After completing all the procedures, a date was set for the pleading and the two parties were informed of it in accordance with the provisions of Article (2/Second) of the aforementioned bylaw. On the day appointed for the pleading, the court was formed and the attorneys of the two plaintiffs, Bassem Khazal Khashan and Ahmed Saeed Musa, attended. The defendant's attorney also attended, in addition to his post, the legal employee, Saman Mohsen Ibrahim. In addition to his position, requesting to rule in accordance with the draft dated 06/23/2021 and request the dismissal of the case. The attorneys of the two parties repeated their requests and statements, and where there is nothing left to say, the Court decided the conclusion of the pleading and issued its following decision in public.

**The decision:**

Upon examination and deliberation from the Federal Supreme Court, it was found that the plaintiffs, Shorouk Tawfiq Abdul Hamid and Sabah Abdullah Abdul Karim, claim that paragraph (2) of Article (2) of the Law of Replacing Members of the Council of Representatives No. (6) of 2006 provides for compensation for the parliamentary seat allocated to the governorate if a vacancy occurs to the candidate of the bloc to which the member covered by the replacement belongs within his list seats in the governorate, this seat

*Athraa*



is not allocated to the candidate who obtained the highest votes on the list. The voter has the voting mark on the ballot paper in front of the list he chooses, and his vote is added to the total votes obtained by the list. according to the Saint Leger system, the winning list shall have the number of seats commensurate with the votes it obtained, and that is what is stipulated in chapter two of the I.C.R. seats distributing system No. (12) for the year 2018, and the voter does not vote for a particular block of the blocs that make up the list, and the voter, after placing the voting mark in front of the list of his choice, may choose the candidate he wants from the candidates of this list that he voted for, then his vote is added to the total votes obtained by the candidate. If the candidate's list wins, its seats are allocated to the winners with the largest number of votes, regardless of the bloc to which the winning candidates belong, and this is what the second step of the mentioned seat distribution system followed, so the plaintiffs requested a ruling that paragraph (2) was unconstitutional. of Article (2) of the Law on Replacing Members of the Council of Representatives No. (6) of 2006. the defendant's attorney, in addition to his position, requested to dismiss the case, as it had already been decided by the Federal Supreme Court under its decision No. (17/Federal/2015 on 4/14/2015) In order to inform the court of the aforementioned decision, the plaintiffs Saad Kateh Hammoud and Khaled Ajami Mohsen and the defendant, the Speaker of Parliament / in addition to his post, requested that the defendant be summoned to plead and a ruling to cancel Paragraph (2) of Article (2) of the Law

*Athraa*



on Replacing Parliament Members No. 6 of 2006 for the reasons stated in their case, where the judgmental paragraph of the aforementioned decision included (the Federal Supreme Court finds the possibility of being guided by the provisions of the Parliament's Elections Law when applying the provisions of the law on replacing members if it is Because this law is free from addressing a case, and accordingly, paragraph (2) of Article (2) of the Law on Replacing Parliament Members No. (6) of 2006 does not violate the provisions of the Constitution, so the court decided to dismiss the case) So and since the decisions of the Federal Supreme Court is final and binding on all authorities based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005 and Article (5/Second) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and the decision regarding the constitutionality of paragraph (2) ) of Article (2) of Law No. (6) of 2006 replacing members of the Council of Representatives by this court. Therefore, the plaintiffs' claim has lost its legal basis. For all of the foregoing, the Federal Supreme Court decided to dismiss the claim of the plaintiffs, Shorouk Tawfiq Abdul Hamid and Sabah Abdullah Abdul Karim, and charge them the fees, expenses, and attorney fees for the defendant's agents/in addition to his post, legal advisor Haitham Majed Salem and legal employee Saman Mohsen Ibrahim, an amount of one hundred thousand dinars to be distributed between them in accordance with the law, finally based on the provisions of Article (94) of the Constitution of the Republic of Iraq

*Athraa*

Republic of Iraq  
Federal Supreme Court  
Ref. 42 / Federal / 2021



Kurdish text

---

for the year 2005 and Article (5/Second) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and in agreement and publicly understood on Muharram 22/1443 AH corresponding to 31/8/2021 AD.

Signature of The president	Signature of The member	Signature of The member
<b>Jasem Mohammad Abbood</b>	<b>Sameer Abbas Mohammed</b>	<b>Ghaleb Amer Shnain</b>
Signature of The member	Signature of The member	Signature of The member
<b>Haidar Jaber Abed</b>	<b>Haider Ali Noory</b>	<b>Khalaf Ahmad Rajab</b>
Signature of The member	Signature of The member	Signature of The member
<b>Ayoub Abbas Salih</b>	<b>Abdul Rahman Suleiman Ali</b>	<b>Diyar Muhammad Ali</b>

---

*Athraa*