

The In the name of god most gracious most merciful

Republic of Iraq
Federal supreme court
Ref. 44/federal/2019



Kurdish text

The Federal Supreme Court (F S C) has been convened on 31/7/2019 headed by the Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-nagshabandi, Aboud Salih Al-temimi, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temman who authorized in the name of the people to judge and they made the following decision:

The Plaintiff : Khalid Salman Hussein/ In addition to the legacy of
Salman Hussein Salman - his agent Ayed Khleif Al-Saidi.

The Defendants : 1- President of the House of Representatives / being in
this capacity his two jurist the director Salem Taha and
legal counsel Haitham Majid Salem.

2- President of the Republic / being in this capacity his legal counsel
Ahmed Sarih.

Claim

The plaintiffs' agents claimed that the inheritance of his client (Salman Hussein Salman) born in 1939 he was sentenced to one year on 28/8/1965 in prison for practicing the activity of the Communist Party and his contract was terminated on 1/8/1966 initiation case No. (5096/qaf/2018) before the Administrative Judicial Court, requesting to be covered by the Political Prisons Law No. (4) of 2006 and the case is still pending before the mentioned court. The National

Assembly had enacted the law on Political Prisoners and the House of Representatives had succeeded the National Assembly and the second defendant had succeeded the Presidency Council and ratified the law, claiming that it violated the State Administrative Law. The Political Prisons Law specified that it is covered by article (5) of it for the period from 8/2/1963 to 18/11/1963 and for the period from 18/11/1963 to 8/4/2003. The plaintiff claimed that Political Prisons Law it is not in line with the Constitution, international treaties and conventions, and its legacy should have been covered by cases covered by the purposes and objectives of the Political Prisoners Law, which was enacted as one of the transitional justice means by lifting the injustice and damage it suffered, the plaintiff's agent requested to judgment of unconstitutional for the paragraph (1st) of the article (5) of Political Prisoners Law No. (4) of 2006 his case shall be covered by the mentioned law after amending the period contained in article (5) of the mentioned law and the defendants are charged fees, expenses and fees to the lawyers. The defendants were informed of the petition and the documents, to which the first defendant's agents replied to the draft of 10/5/2019, which stated that the period set by article (5), paragraph (1), follows the events that followed the February 8, 1963 Revolution explained by Law No. (188) of 1968 this is precisely a legislative choice for paragraph 8/2/1963 to 17/11/1963, and it does not violate any constitutional provision and the request to reject the case. The second defendant's agent replied that his client, Mr. President of the Republic, was not right to be litigant because he had not legalized the law and requested that the case be rejected because he didn't legislate the law and requested to reject the case. The plaintiff also submitted an answering draft and an illustration dated 30/6/2019 that was linked to the case and informed the defendants. On 31/7/2019, a argument date was set and the court invited the parties to examine the prosecutor and the defendants' agents. The plaintiff's agents repeated the petition and requested the judgment according to it, the defendants' agents repeated their answer draft and requested that the case be rejected and

the court concluded the case and issued the following judgment publicly.

The Decision:

When scrutiny and deliberation by FSC found that the plaintiff The plaintiff was found to be one of the heirs of his father, who was sentenced on 28/8/1965 to one year's imprisonment for the activities of the Communist Party and the termination of his contract with the army on 1/8/1966, it did not include the Political Prisoners Law No. (4) of 2006, which specified those covered by its provisions and under article (5) of those sentenced from 8/2/1963 to 18/11/1963 and from 17/7/1968 to 8/4/2003. Therefore, he requested that article (5) be unconstitutional and that his father should be included in the provisions of the Political Prisoners Law referred to by amending article 5 of it and making his detention within the two periods mentioned above. The FSC finds that the defendant's legislation/ being in this capacity article (5) of the mentioned law was a legislative option for the House of Representatives in accordance with its authority as stipulated in article (61/1st) of the Constitution and its legislation was not violation to the Constitution on the other hand, Consideration of the jurisdiction of the FSC provided for in article (93) of the Constitution and article (4) of its Law No. (30) of 2005. Accordingly, decided to reject the plaintiff's claim against the defendant, the President of the Republic, on the basis of the provisions of article (4) of the Civil Proceedings Law No. (83) of 1969, because he was not the one who initiated the law in question and article (5) of the Law. The plaintiff's claim against the defendant, the Speaker of the House of Representatives/ being in this capacity, was rejected for not being based on a reason of the Constitution and the law, and the plaintiff charged the expenses and the lawyers of the defendants' agents, which amounted to 100,000 dinars distributed between them in accordance with the law.

The decision has issued with the unanimously decisively on the basis of the provisions (94) Constitution and the article (5) of FSC's law No. (30) of 2005 and was made clear publicly 31/7/2019 .