



Republic of Iraq
Federal Supreme Court
Ref. 59 unified with 63 / federal /2023

Kurdish text

The Federal Supreme Court (F S C) has been convened on 15/5/2023 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, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff in the case (59/federal/2023): the representative Ameer Kamil Mohammed Al-Mamoori.

The Plaintiff in the case (63/federal/2023): the representative Mohammed Jassim Mohammed Ali/ member of the legal parliamentary committee.

The Defendant: Speaker of the ICR/ being in this capacity – his agents the legal counselor Haytham Majid Salim and the official jurist Saman Muhsin Ibrahim.

The Claim

The plaintiff claimed in the lawsuit petition that the Presidency of the Council of Representatives prepared the agenda for session No. (15) on Sunday, 19/3/2023, including two paragraphs: the first: voting on the proposal of the third amendment law to the Provincial Councils, Districts, and Sub-districts Elections Law No. (12) of 2018, and the second: voting on the council's conviction or not on the answers of the Board of Trustees of the Iraqi Media Network, and it was stated that the date of the session is at eleven o'clock in the morning on Sunday, 19/3/2023, however, the Speaker of the Council did not convene the session on the specified date, violating the mechanisms stipulated in Article (24) of the Rules of Procedure of

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the Council of Representatives, which stipulates that: (The session may not be opened unless the quorum for attendance stipulated in Article (23) of these rules is obtained, and if it turns out that the quorum has not been completed, the President shall declare its opening for a period of not less than half an hour, and if it is not also completed, the President shall announce the postponement of the session, and set another date for its convening, and whereas the Speaker of the Council He did not follow this mechanism and did not open the session on the specified date, and did not inform the members of the Council of Representatives of any other date for the session, which led to some members leaving the Council building after the end of the official working hours, After that, everyone was surprised that the session was held after three o'clock in the morning on Monday, 20/3/2023, without official notification to the members, violating the rules of procedure of the Council of Representatives, whereas the agenda is the basic and first step for the convening and validity of the session, which makes its convening contrary to the Constitution in Article (53 / 1st) thereof, which stipulates the publicity of the sessions of the Council of Representatives, and contrary to Articles (9, 16, 29 / First and 37 / First) of the Rules of Procedure of the Council of Representatives, which indicated the mechanism to be followed in holding the sessions of the Council, organizing the agenda and its annexes, the attendance of members, organizing the minutes of the meetings and informing members of the agenda, as the Council did not distribute the proposal of the third Amendment Law to the Council Elections Law. Governorates and districts to the members of the Council, and it was distributed to those present in the session, which was held after three o'clock in the morning while they were in the session, therefore, following Article 93 of the Constitution, the plaintiff requested this court to cancel session No. 15 and the resulting decisions and to charge the defendant fees and expenses. The lawsuit was registered with this court in the number (59/Federal/2023) and the legal fee was collected in accordance with Article (21/1st) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, and the defendant is informed of its petition and documents under item (second) of the same article, and his agents replied with the reply regulation dated 9/4/2023 it concludes that the session was held with a quorum following Article (23) of the Rules of Procedure of the Council of Representatives, and it is a legitimate session, and that postponing it to

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another date due to lack of quorum does not restrict its adjournment or postponement, and that it was conducted in accordance with the rules of procedure of the Council and the agenda announced in advance, and that the entry of the time in which the session continued to be held to another day does not violate the provisions of the rules of procedure as long as the session continues in accordance with its specific work, and the convening, management and organization of sessions, in accordance with the rules of procedure of the Council of Representatives, regulate their manner, management, and control by the Speaker of the Council, and are considered organizational matters that are outside the jurisdiction of the court in accordance with Article (93) of the Constitution, and the court has previously issued a decision to this effect the meaning in the lawsuit numbered (51/federal/2009) on 12/10/2009, and that the rapporteurs of the session announced before its start the availability of the required quorum according to official records that may not be challenged except by forgery, so they requested to dismiss the lawsuit and charge the plaintiff fees and expenses. After completing the procedures required by the court's internal regulations, a date was set for the pleading following Article (21/3rd) thereof, and the parties were informed of it, and on the appointed day, the court was formed and the case began to be considered, so the plaintiff attended himself and the defendant's agent, the official jurist, Saman Mohsen Ibrahim, attended and began to conduct the public presence pleading, The court noted that the lawsuit (63/Federal/2023) pending before it on the same day and its subject matter is the same as this lawsuit and accordingly based on Article (76/2) of the Civil Procedure Law No. (83) of 1969 as amended, the court decided to unify the two lawsuits and consider the lawsuit (59/Federal/2023) as the original, so the plaintiff himself attended the unified lawsuit, and the plaintiffs repeated what was stated in the two consolidated lawsuits petitions and requested judgment according to what was stated in it. The defendant's agent answered and requested the dismissal of the lawsuit for the reasons stated in the response statements linked to the case papers, and the parties repeated their previous statements and requests, and where there is nothing left to be said, the end of the argument has been made clear, and the court issued the following judgment decision:

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The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiffs' lawsuit is focused on demanding the invalidity of the session of the Council of Representatives No. (15) held on 20/3/2023 and its cancellation and the consequences and decisions that resulted from it, which was intended to vote on the proposal for the third amendment to the Provincial and District Councils Law No. (12) of 2018, in addition to voting on the conviction or inconvincibility of the Council of Representatives on the answers of the Board of Trustees of the Iraqi Media Network, because the session was not held on its specified date, corresponding to 19/3/2023 In the morning, but it was held on the morning of 20/3/2023 without informing the plaintiffs of the date and agenda, and verifying whether or not the quorum is available, contrary to the provisions of the Constitution and the provisions of the Rules of Procedure of the Council of Representatives. The court finds, by checking the minutes of session No. (15) on 19/3/2023, that it began at (3:53) pm, in the presence of (171) deputies, and adjourned the same session at (6:10) six and ten minutes in the morning on 20/3/2023, meaning that it continued in a state of convening from three o'clock fifty-three minutes on 19/3/2023 until it was adjourned at six o'clock and ten minutes in the morning on 20/3/2023, and that the continuation and management of the sessions is one of the organizational matters prescribed in the rules of procedure of the Council of Representatives, and that such as These organizational matters are outside the jurisdiction of the Court specified in Article 93 of the Constitution of the Republic of Iraq of 2005, it is the competence of the Speaker of the Council of Representatives, and thus the plaintiffs' lawsuit must be dismissed, and for the foregoing, the court decided to dismiss the plaintiffs' lawsuit, members of the Council of Representatives, Amir Kamel Mohammed and Muhammad Jassim Mohammed, for lack of jurisdiction and charging them fees, expenses and attorney fees for the defendant's agents, the Speaker of the Council of Representatives, in addition to his job, the legal adviser Haitham Majid Salem and the human rights employee Saman Mohsen Ibrahim, an amount of (one hundred) thousand dinars distributed between them in accordance with the law. The decision has been issued with majority, final, and binding for all authorities according to the

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provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been made clear on 24/Shawwal/1444 Hijri coinciding with 15/May/2023 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court

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