



The Federal Supreme Court (F.S.C.) has been convened on 3. 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 Plaintiffs:

1. Atwan Sayed Hassan / member of the Iraqi parliament for the fifth parliamentary session - his deputy is attorney Ammar Hani Farhoud.
2. Deputy Abdul Amir Najm Abdullah / being in his capacity - his attorney, Ali Karim Idan.
3. Alia Nassif Jassem - Member of the Iraqi Council of Representatives for the fifth parliamentary session, and her representative is attorney Muhammad Majeed Al-Saadi.

The Defendants:

1. Khaled Hassan Saleh Al-Daraji/ permanent capacity as the head of the seniority in managing the session.
2. Khaled Hassan Saleh Al-Daraji / Member of the Iraqi Parliament, Head of the Age.
3. The Speaker of the Iraqi Council of Representatives / being in his capacity - his agents are the Director-General of the Legal Department of

the Council of Representatives Sabah Jumaa Al-Bawi, the Legal Adviser to the Parliamentary Department in the Council of Representatives Salem Abdul-Jabbar Jassem, the Legal Adviser Haitham Majid Salem and the human rights employee Saman Mohsen Ibrahim.

The Claim:

In the case numbered (7/federal/2022), the plaintiff, Atwan Sayed Hassan, a member of the Council of Representatives, claimed, through his attorney, that after the approval of the FSC on the results of the early elections that took place on 10/10/2021 to elect members of the Iraqi Council of Representatives for the fifth parliamentary session and a call The President of the Republic, the Council of Representatives, to hold its first session and set the date of 9/1/2022, whereas, the Independent High Electoral Commission issued its letter No. (5360 on 29/12/2021) addressed to the General Secretariat of the Iraqi Council of Representatives specifying the name of the oldest members with the reserves, where the name of Mahmoud Dawood Salman al-Mashhadani was mentioned in the first sequence and thus he is the head of the first session according to The text of Article (54) of the Constitution of the Republic of Iraq for the year 2005. And Article (5) of the internal system of the Iraqi Council of Representatives, but after ascending to the presidential podium, opening it, repeating the constitutional oath, running the session, and receiving the request of the members of the coordination framework in the Iraqi Council of Representatives confirming that it is the most numerous bloc, through Representative Ahmed Al-Asadi did not reject or object, to the non-acceptance of the application and requested that it be confirmed, and the president referred it to the legal counsel for scrutiny, after the transfer of the president of the age to the hospital, the second reserve, Khaled Al-Darraji, took the podium without any waiver, approval or exemption by the legitimate president Mahmoud al-Mashhadani, so the plaintiff requested the

validity of the delivery of the coordinating framework bloc its signatures as the most numerous bloc to the president of the sharia session in accordance with the constitution and the rules of procedure and the ruling to cancel, null and desist the session moderated by the first, second and third defendants on 9/1/2022 and remove its legal effect for the following reasons: **First:** Article (54) of the Constitution indicated that the president of the first session is the oldest member and his presence in the session and his administration has proof of the good will of the presence and not completion of the session was not of his own volition but for a reason and a compelling circumstance, and that the rise of some members on the podium was contrary to article above and article (5) of the bylaw, and that the change of the presiding officer is through a vote to exempt him or dismiss him from the administration of the session and the first or second reserve to do so, He also went out on the official media and stuck to the session administration and there is no proof otherwise, in addition, he ran for the presidency of the Council, but the deterioration of his health prevented him from being present and exercising his right, and calling on allies to elect him is a practice of the Democratic line, which has lost him his right to equality with the other candidate, This led to the departure of allies in protest against the violation of the Constitution by the defendants in articles (5- sovereignty of the law), (6- Transfer of authority shall be made peacefully), (14- Iraqis are equal), (16- equal opportunities), (19/6th have the right to be treated with justice) and (54) And (55) of the Constitution. **Second:** The failure to recognize the list of signatures from the coordination framework as the most numerous bloc and the adoption of the Sadrist bloc despite the fact that there is a difference of more than 6 hours between the two applications submitted is contrary to the parliamentary custom that took place in the first session of the elections of the Council of Representatives in 2014. **Third:** Candidates have not been announced with the biographies of each candidate, contrary to the previous sessions of the previous parliamentary sessions. **Fourth:** Under article (55) of

the Constitution, the election must be by direct secret ballot, and the electoral papers and the equivalent of voters for Mohammed al-Halbousi have been marked and marked by an agreement between the blocs, which has lost the complete secrecy that came out absolutely in the article above. The plaintiff, therefore, requested the FSC to invite the defendants to plead and rule on the legality and validity of the procedures for handing over the list of signatures submitted by the Coordinating Framework as the most numerous parliamentary bloc and to rule that the hearing held by the first defendant was null and void, in addition to his interrupted character, the second defendant in his capacity and the third defendant/ being in his capacity on 9/1/ 2022, the abolition of the legal impact and nullity, the cancellation of its outputs and its full outcome, and the call for the President of the Republic to redefine a new date. According to the legal and constitutional contexts of the Iraqi parliament session (the first session) and the charging of the defendants/ being in their capacity or functions fees, expenses, and fees of lawyers. The case was registered with this court in number (7/federal /2022) and the legal fee for it was met in accordance with the provisions of article (1/3rd) of the Rules of Procedure of the FSC No. (1) of 2005 and informs the defendants of its petition and documents in accordance with the provisions of Article (2/1st) of the same bylaw above, MP Khaled Hassan Saleh al-Darraji replied in his capacity (the first defendant, the president of the age for the first session) and as the second defendant as a member of the Council of Representatives under the regulations of 18 January, 2022 requesting that the case be dismissed against him for not The antagonism is directed at him as the President of the Age and as a deputy in the Council of Representatives and the plaintiff is charged all expenses. The third defendant's agent (speaker of the Council of Representatives in addition to his post) responded to the answering list dated 18/1/ 2022, which included:

1- The only function of the President of the Age is the election of the Speaker and his two deputies under article (54) of the Constitution and Article (5) of the bylaw of the Council of Representatives, and the Head of the Seniority is aware of this as he was notified by the General Secretariat of the Council of Representatives during the meeting of 5/1/2022 and by the council's advisers on the morning of 9/1/2022, contrary to his interest, he asked to deliberate between the blocs, which led the deputies to object to this and try to convince him to abandon it, which led to cover and objections Severe. 2- The departure of the Speaker of the Age is a departure from his mission from two sides, the first when he left the meeting and indicated to the Secretary-General of the Council when contacted that he would not return to manage it, and the second when he indicated that he was running for the post of Speaker of the Council of Representatives despite being informed that he would leave the session administration and leave the podium if he wished to run for the mentioned post. 3- Under Article (54) of the Constitution and Article (5) of the Bylaw of the Council of Representatives, the oldest member is present at the first session, he automatically manages the session and no decision is needed. 4- The issue of the list of signature coordination framework and the adoption of the Sadrist movement bloc and the details related to the two things is under consideration by the presidency of the Council of Representatives and did not show a position valid to complain about it and according to the article (76/1st) of the Constitution and the decision of the FSC, which indicated that the most numerous bloc is formed after the elections or during the first session. In which a president and two deputies are elected, the president-elect has an obligation to deal with the requests for the declaration of the most numerous bloc as he is concerned with announcing the lifting of the first session after completing the duties in accordance with the Constitution, bylaw, and decisions of the FSC. The third defendant's agent, therefore, requested that the plaintiff's case be dismissed in form and subject matter and that all expenses be charged.

After completing the required procedures in accordance with the provisions of the bylaw above, a date was set for the case in accordance with article (2/2nd) of it, and the parties were informed of it, and on the appointed day the court was formed, and the prosecutor and his attorney Ammar Hani Farhoud attended and MP Khaled Hassan Saleh in his capacity as the first and second defendants attended the third defendant Sabah Juma al-Bowie/ Director General of the Legal Department of the Council of Representatives and legal advisers Haitham Majid Salem and Salem Abdul Jabbar Jassim and human rights officer Saman Mohsen Ibrahim The court noted that the lawsuits (9/federal/2022) and (10/federal/2022) were the subject of this case and the defendants, The court therefore decided to unite them with the case (7/federal/2022) and consider the case (7/federal/2022) to be the origin, based on the provisions of article (76/2) of the Civil Arguments Act No. (83) of 1969 amended and lawyer Ali Karim Aidan, a prosecutor, appeared in the case (9/federal/2022) and her attorneys Mazen Raad Abdullah and Mohammed Majid al-Saadi attended the case and requested the verdict, and the first and second defendants and the third defendant's agents repeated the regulations submitted to them and requested the verdict according to them. Each party reiterated its previous statements and requests, and where there is nothing left to say, the end of the pleading has been made clear, the case and the court issued the following ruling:

The Decision:

After scrutiny and deliberation by the FSC found that the plaintiffs in the united cases included the ruling on the legality and validity of the procedures for handing over the list of signatures submitted by the coordinating framework as the most numerous parliamentary bloc and the ruling of nullity and the cancellation of the session of the Council of Representatives held on 9/1/2022, the abolition of the legal effect and the call of the President of the Republic to set a new date and according

to the legal and constitutional contexts of the session of the Council of Representatives, through the court's scrutiny of the cases in question, the plaintiffs' requests and their agents during the proceedings and the defences of the defendants' and defendants' own prosecutors when they appear before this court, this court finds that in relation to the plaintiffs' request to annul the session of the Council of Representatives held on 9/1/2022, 2 This court has already issued its decision in number (5 and unit 6/federal/2022) on 25/1/ 2022, which includes the ruling to dismiss the plaintiffs' case, where their claim included a request to rule that the first session was unconstitutional and that all the proceedings, decisions issued and all the results that led to it, and since the decisions of this court and the provisions of article (94) of the Constitution of the Republic of Iraq of 2005, which stipulated (decisions of the Federal Supreme Court are final and binding for all authorities) and Article (5/2nd) of the FSC Law No. (30) for the year 2005, as amended, which stipulates (the rulings and decisions issued by the FSC are final), so if the previous ruling by this court on the same subject is required to dismiss the plaintiffs' suit from this aspect, As for the plaintiffs' request regarding the most numerous parliamentary bloc, this court finds that the constitutional legislator mentioned the federal authorities under the Constitution of the Republic of Iraq for the year 2005 in Part Three of it. And it stipulated in Article (47) that these authorities consist of the legislative, executive, and judicial authorities and exercise their powers based on the principle of separation of powers the mother authority) being made up of the people's representatives, from which the rest of the powers are generated. According to this chapter, the mechanism of the formation of the legislative authority is drawn up. In the first section, the Council of Representatives is mentioned, how it is formed, the conditions for membership in it, the working mechanism, and the powers that it exercises under the constitution. Then the constitutional hierarchy continues by moving to the second authority (the executive authority) in accordance with Chapter Two of the Constitution, and

stipulates how to form it, as Article (66) of it states that it consists of the President of the Republic and the Council of Ministers, and in the first section, how to form the first part of the executive authority Represented by the President of the Republic, where he defined the President of the Republic and the conditions for his election, which must take place in accordance with the provisions of Article (70) of the Constitution, which requires the Council of Representatives to elect the President of the Republic by a two-thirds majority of the total number of its members in a session whose constitutional quorum is achieved in the presence of two-thirds of the total number of members of the Council of Representatives, provided that the election takes place With the approval of two thirds of the total number of members of the Council in accordance with Article (70/1st) of the Constitution, then Paragraph (2nd) of the same Article is applied. In the event that none of the candidates obtains the required majority, the competition will take place between the candidates with the highest votes, and whoever obtains the majority of votes in the second ballot is declared president. It is to assign the candidate of the most numerous parliamentary bloc to form the Council of Ministers within fifteen days from the date of the election of the President of the Republic, meaning that the second part of the executive authority represented by (the Council of Ministers) is constitutionally born after the birth of the first part represented by the President of the Republic, since the nomination of the candidate charged with forming the second part (the Council of Ministers) is from the most numerous parliamentary bloc, the list that includes this bloc is submitted to the Presidency of the Council of Representatives for scrutiny and to ensure that it actually includes the largest number of deputies, and then it is sent to the President of the Republic to exercise his role according to Article (76) of the constitution, and this does not prevent the list of the parliamentary bloc with the largest number from being presented in any session of the Council of Representatives, even if it is after the session of electing the President of the Republic, because the list of the most

numerous parliamentary bloc is subject to change according to alliances between parties and lists until the announcement of this most numerous bloc by the presidency Parliament and then submitted it to the President of the Republic. Since the President of the Republic was not constitutionally elected until the date of filing this case, and the Presidency of the Council of Representatives did not announce the name of a particular bloc as the most numerous bloc, independent parties, and personalities can join each other according to the provisions and conditions of the Iraqi Parliament Elections Law No. (9) of 2020 and submit this list To the Presidency of the Council of Representatives, which clearly announces the name of the most numerous bloc by indicating the names of its signatories (parties, lists or independent personalities) and then submits it to the President of the Republic after his constitutional election to exercise his constitutional role in assigning the candidate of this bloc to form the Council of Ministers. Accordingly, and all of the foregoing, the FSC decided the following:

First: The ruling dismissing the plaintiffs' suit.

Second: To charge the plaintiffs fees, expenses, and attorney fees for the defendant's attorneys an amount of one hundred thousand dinars, and the decision of the agreement was final and binding on all authorities based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 and Articles (4 and 5/2nd) of the FSC Law No. (30) for the year 2005, as amended by Law No. (25) for the year 2021, and the decision had made clear public on 1/Rajab/1443 coinciding with 3/February/2022.

Signature of The president	Signature of The member	Signature of The member
Jasem Mohammad Abod	Haidar Jaber Abed	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**