

Republic of Iraq
Federal Supreme Court
Ref. 86 / Federal / 2022



The Federal Supreme Court (F.S.C.) convened on 1.6.2022 headed by Judge Jasem Mohammad Abboud and the membership of the judges Sameer Abbas Mohammed, Galib Ammer Shnen, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed 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 plaintiff:

Hussain Abdul-Amir Khudair - his attorney, Nasir al-Din Mudlul Abdul.

The defendant:

President of the Federation of Iraqi Chambers of Commerce / in addition to his post - his attorney, Wael Jassem Al-Waeli.

The claim:

The plaintiff, through his attorney, claimed that the defendant, in addition to his position, issued the first amendment to the internal system of the Federation of Iraqi Chambers of Commerce for the year 1989, which was published in the Iraqi Gazette in Issue No. (4656) on November 29, 2021, and Article (5) of it stipulated that (the text of Article 32 of the system is repealed. The procedure is to be replaced by the following: Article Thirty-Second - First - A person who is nominated for membership in the Chamber's Board of Directors requires the following: And he must be a member of the excellent or first category for a period of not less than (3) three years before nomination), and that the classification in the Chambers of

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Commerce according to Increasing the capital and economic capacity in it is a distinction on an economic basis between members of one organization, namely the Chamber of Commerce, and since equality is the basic building block for any real democratic process, which means that all persons in similar legal positions enjoy the same legal treatment without discrimination based on gender, origin or language Or religion, belief or economic status, and also means no discrimination and discrimination between members of the same organization who practice commercial activities for the same period and for the same period of affiliation This is a clear violation of the Constitution in Articles (14), (15), (16) and (20) which affirmed the principle of equality, the right to life, security, freedom and the principle of equal opportunities, and the right to participate in public affairs and enjoy political rights. The Federal Supreme Court cancels the text of Article (Thirty-Second / First / F) of the first amendment to the internal system of the Federation of Iraqi Chambers of Commerce for the year 1989 and cancels all its consequences and any action based on it. The case was registered with this court in No. (86/Federal/2022), and the legal fee was collected for it in accordance with Article (1/Third) of the Federal Supreme Court's internal system No. (1) of 2005 and informs the defendant of its petition and documents in accordance with Article (2/first) of The same rules of procedure were mentioned above, and his agent replied with his answer list, which summarized that his client is the chairman of the board of directors of the Federation of Iraqi Chambers of Commerce, where Article (15) of Federation Law No. (43) of 1989 authorized the Federation Council for issuing internal regulations dealing with setting the conditions to be met by the candidate For

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elections to the board of directors of the Chambers of Commerce, one of these conditions is that the candidate must have the category of excellent or first. As for the rest of the categories, they are not entitled to nomination, because the two mentioned categories are characterized by high financial ability and great commercial experience due to the volume of trade that characterizes the owners of the two categories mentioned, as well as commercial and economic relations at the local and international level, as for the rest of the other varieties, they do not have these advantages or experiences because they are newly affiliated, and that there are conditions for those wishing to run for election to the boards of directors of most federations and unions in Iraq, including what is stated in Article (85/2/a) of the Advocacy Law and what is stated in Article (9/Second) of the Law of the Union of Jurists, and there is no violation of the Constitution, Finally, in setting the conditions for nomination for membership in the board of directors of the Chambers of Commerce, and these conditions are so that the applicant will have advantages that make him qualified to manage these boards and provide what is best for the Iraqi merchant in terms of assigning and developing the private sector, so he asked to dismiss the case and charge the plaintiff with expenses and attorney fees. After completing the procedures stipulated in the Federal Supreme Court's bylaw No. (1) of 2005, a date for pleading was set in accordance with Article (2/Second) of it, and the two parties were informed of it. On the appointed day, the court was formed, and the attorney general of the plaintiff (Nasir al-Din Mudlul Abd) attended and attended. The defendant (the head of the Federation of Iraqi Chambers of Commerce / in addition to his post) and his attorney, Wael Jassem,

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and started the public pleading, the plaintiff's attorney repeated what was stated in the lawsuit petition and asked for judgment according to what was stated in it. Submitted by him in response to the petition of the case, and the two parties' attorneys repeated their previous statements and requests, and where there was nothing left to be said, the court decided the conclusion of the pleading and issued the following ruling:

The decision:

Upon examination and deliberation from the Federal Supreme Court, it was found that the plaintiff requested to invite the defendant, the president of the Federation of Iraqi Chambers of Commerce / in addition to his position to plead and rule to cancel Article (Thirty-Second / First / waw) of the internal system of the Federation of Iraqi Chambers of Commerce for the year 1989 as amended under Article (5) of Bylaw No. (2) of 2021 (the first amendment to the internal system of the Federation of Iraqi Chambers of Commerce for the year 1989) published in the official Iraqi Gazette No. (4656 on November 29, 2021), where Article (5) of it stipulates that (the text of Article 32 shall be canceled. of the bylaw and replaced by the following: Article (Thirty-Second/First) A person who is nominated for membership in the Chamber's Board of Directors shall have the following conditions and – members of the excellent or first category for a period of no less than (3) three years prior to nomination) and the plaintiff considers that the conditions that What is included in this article is discrimination on an economic basis between members of one organization, namely the Chamber of Commerce since equality is the basic building block for any

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democratic process. It is real, which means that all persons in similar legal positions enjoy the same legal treatment without discrimination based on gender, origin, language, religion, creed, or economic status. Explicit and clearly visible articles of the Constitution of the Republic of Iraq for the year 2005, Article (14) states (that Iraqis are equal before the law without discrimination based on gender, race, nationality, origin, color, religion, sect, belief, opinion, economic or social status), as well as what It is stipulated in Article (15) of the Constitution (Everyone has the right to life, security, and freedom, and these rights may not be deprived or restricted except in accordance with the law, and based on a decision issued by a competent judicial authority) as well as Article (16) of it, which emphasized the principle of equal opportunities. As a kind of equality, which reads (equal opportunities is a right guaranteed to all Iraqis, and the state guarantees to take the necessary measures to achieve this) and Article (20) of it, where it stipulates (citizens, men and women, have the right to participate in the public affairs, and enjoyment of political rights, including the right to vote, elect and be nominated), and by examining the text of the contested article and comparing it with the aforementioned constitutional texts, this court finds that there is no conflict between the amended Article (Thirty-Second / First / waw) of the internal system of the Federation of Chambers of Commerce Al-Iraqiya for 1989 and any of the constitutional texts and articles mentioned by the plaintiff in his petition, as there is no conflict in the contested text with the basic rights and freedoms stipulated in the Constitution, nor with the constitutional principles that emphasized equality, equal opportunities, the right to life, security and freedom, and the

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contested article did not perform to deprive or restrict these rights and that the defendant, according to his authorization under Article (15) of the Law of the Federation of Iraqi Chambers of Commerce No. (43) of 1989, has the right to issue an internal system dealing with setting the conditions that must be met by the candidate for election to the membership of the Board of Directors of the Chambers of Commerce Among these conditions, the candidate must have the excellent or first class because they are characterized by high financial ability and extensive commercial experience. Beer because of the volume of trade that characterizes the owners of the two mentioned brands, as well as commercial and economic relations at the local and international levels. As for the rest of the other varieties, they do not have these advantages, and for the foregoing and the absence of a constitutional violation, the Federal Supreme Court decided to reject the claim of the plaintiff Hussein Abdul Amir Khudair and charge him with fees, expenses and fees Advocacy for the defendant's attorney, in addition to his post, lawyer Wael Jassem Al-Waeli, an amount of one hundred thousand dinars. The judgment was passed by agreement 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/Second) of Federal Supreme Court Law No. (30) for the year 2005 as amended by Law No. (25) for the year 2021 and publicly understood on 1/ Dhu al-Qa'dah/ 1443 AH corresponding to 1/6/2022 AD.

Signature of
The president
Jasem Mohammad Abbood

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