

Republic of Iraq  
Federal Supreme Court  
Ref. 202 / Federal / 2022



---

The Federal Supreme Court (F.S.C.) convened on 27.9.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Galeb Amer Shneen, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed Rajab, Ayoub Abbas Salih, Abed Alrahman Sulaiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

The plaintiff: Wasem Meften Awheed – an officer in the Ministry of Interior - his two attorneys are Rasim Muften Waheed and Dhafer Shaker Khashen.

The defendant: the Minister of Interior/ in addition to his position - his attorney, Lt. Col. Hikmat Luqman Hassanein.

**The claim:**

the plaintiff claimed that the Fifth Internal Security Forces Court, which is administratively linked to the Minister of Interior, according to Article (116) of the Internal Security Forces Criminal Procedure Code No. (17) of 2008, issued judgment No. 532/2015 against him with simple imprisonment for three months. According to Article (331) of the Iraqi Penal Code No. (111) of 1969 in the lawsuit filed against him No. (2/2015), based on an investigative council formed by order of the Inspector General of the Ministry of Interior /

---

*Athraa*

Republic of Iraq  
Federal Supreme Court  
Ref. 202 / Federal / 2022



---

Directorate of Legal Investigations, Legal Affairs Section No. (595) on 22/8/2013 based on the provisions of Section (Fifth/Second) of the dissolved Coalition Provisional Authority Order No. (57) for the year 2004, and because the court had relied upon issuing its ruling on the Investigation Council and did not rely on the aforementioned Code of Criminal Procedure for the Internal Security Forces, which is the law of the special procedure, article (6) of which specified the authority to form investigative councils at the Minister of Interior at the Ministry's headquarters, and based on the legal principle adopted by the Employees' Judiciary Court in the case filed before it in the number (90/Staff judiciary/2020) on 7/13/2020, which stated (the penalty imposed against the employee is void if the formation of the investigative committee is from a non-competent party), so the plaintiff requested the Federal Supreme Court to rule the invalidity of the judgment issued against him by the Fifth Internal Security Forces Court No. (532/2015), in lawsuit No. (2/2015), and charging the defendant with fees and expenses. The case was registered with this court in No. (202/Federal/2022), and the legal fee was collected for it in accordance with Article (21/First) of the Federal Supreme Court's internal system No. (1) of 2022, and informs the defendant of its petition and documents in accordance with Article (21/second) from the same bylaw, mentioned above, his two attorneys replied in the answer list dated 9/8/2022, summarizing that the decision taken to form an investigative council is one of the administrative decisions whose consideration is outside the jurisdiction of the Federal

---

*Athraa*

Republic of Iraq  
Federal Supreme Court  
Ref. 202 / Federal / 2022



---

Supreme Court stipulated in Article (93) of the Constitution and Article (4) of its law No. (30) of 2005, and the administrative investigation was formed and decided upon and referred to the competent court, and the judgment acquired a final degree and judgment became enforceable. The plaintiff should have challenged the formality in its time within the legal term that considers as of general order and cannot be violated at all, therefore he requested to dismiss the case in both formal and objective terms, and to charge the plaintiff with fees, judicial expenses and attorney fees. After completing the procedures stipulated in the aforementioned court bylaws, a date was set for the pleading and the two parties were informed of it. On the appointed day, the court was formed. The plaintiff and his attorneys attended, and the defendant's attorney, the legal presenter Hikmat Luqman Hassanein attended and started the pleading in the presence and public. the plaintiff and his attorneys repeated what was stated in the pleading of the case and requested a ruling according to it. The defendant's attorney answered and requested the dismissal of the case for the reasons stated in his answer list attached to the case papers, and each party repeated his previous statements and requests, where there was nothing left to be said, the court decided the conclusion of the pleading and issued the following decision:

---

*Athraa*

Republic of Iraq  
Federal Supreme Court  
Ref. 202 / Federal / 2022



---

**The decision:**

Upon examination and deliberation by the Federal Supreme Court, it was found that the plaintiff's lawsuit included a request to revoke the ruling issued by the Fifth Internal Security Forces Court No. (532/2015) in lawsuit No. (2/2015) because it was based on an investigative council formed under Order (57) for the year 2004 (The order of the dissolved coalition authority) and was not based on the provisions of the Code of Criminal Procedure of the Internal Security Forces No. (17 of 2008). By reviewing the case file, the plaintiff's requests, and the defenses of the defendant's attorney, in addition to his job, this court finds that the plaintiff has been sentenced by the Fifth Internal Security Forces Court to imprisonment for a period of three months in accordance with the provisions of Article (331) of the Penal Code No. (111) of 1969, as amended by Judgment No. (532/2015) was quoted on April 22, 2015, and the Internal Security Forces Criminal Procedure Code No. (17 of 2008) in Article (78) of it outlined the way to appeal rulings issued by the Internal Security Forces courts to the Internal Security Forces Court of Cassation within thirty days from the date of being notified of it, the plaintiff must follow the path outlined in the aforementioned article to appeal the judgment issued against him, on the one hand, and the other hand. Federal Supreme Court Law No. (30) of 2005, as amended, does not include appealing rulings issued by the ISF courts. Therefore, for the reasons presented above, the plaintiff's lawsuit has lost its constitutional and legal support. Therefore, it is binding to be

---

*Athraa*

Republic of Iraq  
Federal Supreme Court  
Ref. 202 / Federal / 2022



---

dismissed. The Federal Supreme Court decided to dismiss the plaintiff's lawsuit and to charge him with all judicial expenses, including the attorney's fees for the defendant's attorney, in addition to his job, the legal presenter, Luqman Hassanein, an amount of one hundred thousand dinars, and the decision was issued by agreement final based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq and (4 and 5/Second) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and publicly understood on Safar 30/1444 AH corresponding to 9/27/2022 AD.

Signature of  
The president

***Jasem Mohammad Abbood***

---

*Athraa*