

Republic of Iraq
Federal Supreme Court
Ref 246/ federal/2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 25/3/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Munther Ibrahim Hussein who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Mustafa Jabbar Sanad (Member of the Iraqi Council of Representatives) - His agents the barristers Ahmed Mazen Abdul Wahed and Yasser Falah Hassan and Mohammed Majeed Rsen.
The third person besides the plaintiff: Basim Khazal Khashan.

The Defendant: Head of the Council of Representatives, being in this capacity, his two agents, human rights employees Saman Mohsen Ibrahim. and Aseel Samir Rahman.

The Claim:

The plaintiff, through the mediation of his agents, claimed that the Iraqi Council of Representatives had previously held its ninth session of the fifth parliamentary session, the second legislative year, the second legislative term on 14/8/2023, headed by the First Deputy Head of the Iraqi Council of Representatives, which included at the beginning the presentation of the request submitted by a group of deputies who intend to add an appointment paragraph (Ihsan Al-Awadi) as Director of the Prime Minister's Office to the agenda of the aforementioned session, and this was voted on by approval in addition to voting on his appointment as Director of the Prime Minister's Office by the deputies present at the session, note that he did not obtain a majority when voting, as the number was not enough to achieve the quorum and vote

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on it,all this according to the video clip in which the vote appeared, which shows that the majority did not vote on the appointment of the Director of the Prime Minister's Office, which violates the validity of the appointment and makes his occupation of the position contrary to the Constitution and the law, so the plaintiff asked this court to rule that the appointment of (Ihsan Al-Awadi) as Director of the Prime Minister's Office was invalidity due to the lack of quorum when voting, and charging the defendant fees, expenses and attorneyship fees. After registering the case with this court No. (246/Federal/2023), collecting the legal fee for it, and informing the defendant of its petition and documents based on Article (21 / first and second) of the internal regulations of the Federal Supreme Court No. (1) of 2022, his agent replied with the reply regulation dated 18/10/2023, which concluded: The plaintiff's agents did not indicate the constitutional articles that the Council of Representatives violated,upon voting approving the addition of the paragraph appointing (Ihsan Al-Awadi as Director of the Prime Minister's Office) to the agenda of session No. (9) on 14/8/2023, hence, voting on the appointment of the referred to as Director of the Prime Minister's Office, and the voting procedures on the request submitted by a group of deputies were conducted in accordance with the established procedures and the provisions of the rules of procedure,to the Council of Representatives, and there is no validity to the claims of the plaintiff's agents, and it is clear through the minutes of the said session and its recommendations issued for the Department of Parliamentary Affairs / Sessions Organization Section and the two papers of the availability of quorum for the attendance of members of the Council of Representatives for this session issued by the Department of Public Relations and Parliamentary Protocol accompanying the regulation that the quorum was achieved at the

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opening of the session and when voting on adding the paragraph on the appointment of (Ihsan Al-Awadi Director of the Prime Minister's Office) to the agenda and when voting to approve the appointment, which is an official document that may not be challenged except by forgery, so the defendant's agent requested to reject the plaintiff's lawsuit and charge him fees, judicial expenses and attorneyship fees. After completing the procedures required by the court's rules of procedure, a date was set for the pleading in accordance with Article (21/3rd) thereof, in which the court was formed, and the plaintiff and his attorneys, lawyers Muhammad Majeed Rasan and Ahmed Mazen Abdul Wahed, attended, and the defendant's agents attended and began to conduct the public presence pleading, the plaintiff repeated what was stated in the lawsuit petition and requested a judgment according to which the defendant's agent replied, they requested to reject of the lawsuit for the reasons stated in the regulation dated 18/10/2023, and the plaintiff highlighted the minutes of session No. (9) on 14/8/2023, and requesting to bring the rapporteurs of the Council of Representatives at the time of session No. (9) on 14/8/2023, accordingly, the court decided to do so and also decided to bring the official of the Department of Organizing Sessions and the Director General of the Public Relations and Parliamentary Decrees Department who signed the detailed report organized in the said session, in which the full attendance in the Council of Representatives is shown, and to bring the rapporteur of the session (Gharib Askar) and provide the court with the full recording of the session of the Council of Representatives No. (9) on 14/8/2023, it also decided to accept the request of - the third person - besides the plaintiff (Bassem Khazal Khashan), so he attended after paying the fee, the court decided to reject his request to bring the First Deputy Head of the Council of

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Representatives, Mohsen Al-Mandalawi - a third person - to clarify from him ((the reason for his reference to the rapporteurs of the session of the Council of Representatives and according to Article (36/I) of the Rules of Procedure of the Council of Representatives and to provide clarification on the period of counting voters)) due to his lack of the correct legal basis, because the defendant is required to be entered, and each of (Riyad Abdel Khaleq, Head of the Sessions Management Division, Salam Ali Muhammad / Director General of the Public Relations Department and Gharib Askar / Rapporteur of the session) attended, and the court heard their statements and reviewed minutes of unpacking the unloaded CD from Department of Information Technology for the full recording without interruption of the session No. (9) on 14/8/2023, received by the court according to the letter of the Council of Representatives / Media Department No. (313) on 24/12/2023, and provided the parties with a copy of it and displayed the content of the disc on the courtroom screen, and after the court heard the statements and requests of the parties and nothing remained to be said and completed its scrutinies, the end of the argument has been made clear and issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the lawsuit of the plaintiff Mustafa Jabbar Sanad focuses on demanding the invalidity of the appointment of (Ihsan Al-Awadi) as Director of the Prime Minister's Office due to the lack of quorum when voting, as he claimed that the Iraqi Council of Representatives had previously held its ninth session of the fifth parliamentary session, the second legislative year, the second legislative term, on 14/8/2023, Chaired by the First Deputy Head of the Iraqi Council of

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Representatives, which included at the beginning a presentation the request submitted by a group of deputies who intend to add the paragraph of appointment (Ihsan Al-Awadi as Director of the Prime Minister's Office) to the agenda of the aforementioned session, and this was voted on by approval in addition to voting on his appointment as Director of the Prime Minister's Office by the deputies present at the session and according to the plaintiff's claim that he did not obtain a majority when voting because the number is not enough to achieve the quorum and vote on it, he attached the video clip in which the vote took place, which clarifies, according to his claim, that the majority did not vote on the appointment of the Director of the Prime Minister's Office, which violates the validity of the appointment and makes his occupation of the position contrary to the Constitution and the law, and asked the court to rule on the invalidity of the appointment of (Ihsan Al-Awadi as Director of the Prime Minister's Office), due to the lack of quorum when voting, and upon reflection on the plaintiff's lawsuit and his requests and the defense of the defendant's agent / being in this capacity, this court finds and after reviewing the minutes of the meetings of the Deputies Session No. (9) on 14/8/2023, that the quorum was achieved at the opening of the session, and when voting on the addition of the paragraph on the appointment of (Ihsan Al-Awadi as Director of the Prime Minister's Office) to the agenda, upon voting in favour whereas the minutes of the sessions of the Council of Representatives are official documents and may not be challenged except by forgery in accordance with the provisions of Article (22/1st) of the Evidence Law No. (107) of 1979, as amended, and the absence of any prejudice with regard to the validity of the procedures of the Council of Representatives regarding the validity of the appointment of (Ihsan Al-Awadi) as Director of the Prime Minister's Office, and from the foregoing, the plaintiff's lawsuit

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lacks its legal basis and deserves to be answered, so the Federal Supreme Court decided to rule as follows:

First: Reject the lawsuit of the plaintiff Mustafa Jabbar Sanad and the third person by his side Basim Khazal Khashan, for lack of prejudice the validity of the procedures of the Council of Representatives regarding the validity of the appointment of (Ihsan Al-Awadi) as Director of the Prime Minister's Office.

Second: Charging the plaintiff and the third person entering his side to complete the litigation fees, expenses and attorneyship fees the defendant's agents, the Head of the Council of Representatives, being in this capacity, human rights employees, Saman Mohsen Ibrahim and Aseel Samir Rahman, received an amount of one hundred thousand dinars distributed in accordance with the law.

The decision has been issued unanimously, final and binding on all authorities according to 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 Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021. The decision has been made clear on 14/Ramadan/1445 A.H corresponding to 25/3/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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