



The Federal Supreme Court (F S C) has been convened on 28/4/2021 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghalib Amir Shunayen, Hayder Jabir Abid, Hayder Ali Noori, Khaled Ahmed Rajab, Adobo Abbas Salah, Abdul-Rahman Suleiman Ali, and Dyer Mohammed Ali who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Talal Khudair Al-Zobae/ his agent the Barrister
Mohammed Akram Ali.

The Defendant: the Speaker of the ICR/ being in this capacity-his
Agent the legal advisor Haytham Majid Salim.

The Claim

The plaintiff claimed that he is a member of the Iraqi Parliament for the current election cycle and that he has already run for the presidency of the Council of Representatives, and after the session held on (16 September 2019) headed by the oldest member (Mohammed Ali Zaini) was announced the victory of the Representative (Mohammed Rekan Al-Halbousi) as the Speaker of the ICR, and he was not satisfied with the election for violating the Constitution of the Republic of Iraq in 2005 and the law and the Bylaw of the Council, he appealed the unconstitutionality and legality of the election of the Council for the following reasons:

The violations which occurred had been represented by breaching the secrecy of the elections, whereas some Representatives had interfered in the direct secret ballot and the Representatives compelled each other for voting. He had the material evidence which proves this matter, and the aforementioned events represent a violation of the Constitution in the text of the article (55) which stipulated (the

Council of Representatives shall elect in its first session its speaker, then his first deputy and second deputy, by an absolute majority of the total number of the Council members by direct secret ballot). For the existence of the witnesses and the other material clues, he requested to judge by unconstitutionality, legality, and legitimacy of electing the Defendant as a Speaker of the ICR and to annul all the legal and constitutional traces based on the aforementioned election. He also requested to re-elect a Speaker for the ICR according to the mechanism stipulated in the Constitution and to burden Defendant with the fees and the judicial expenses and the advocacy fees. According to the provisions of the article (1/3rd) of the FSC Bylaw No. (1) for 2005, this case had been registered by the number (55/Federal/2019) and according to what is listed in the article (2/1st) of the above-mentioned Bylaw, the Defendant/ being in this capacity had been notified with the case's petition and its documents and he answered by his agent the Ph.D. Sabah Juma'a Al-Bawi in the draft dated 24/June/2019. He requested to reject the case for the following reasons:

1. The Federal Supreme Court previously decided for the case number (194/Federal/2018) which had the same subject of this case and between the same parties. This reason is enough to reject the case because of the previous decision, and the process of electing the Speaker of the ICR, his two deputies were secret and direct.
2. The petition of the case did not contain any material evidence.
3. As for the request of the agent of the plaintiff to annul all the constitutional and legal traces based on electing the Speaker of the ICR, these traces represented by opening the nomination door and electing the two deputies of the Speaker, considering that their electing process was accomplished after completing the process of electing the Speaker of the ICR as well electing the President of the Republic and voting the government program in addition to the ministerial cabinet and passing several laws.

After completing all the procedures according to the article (1/1st) of the Bylaw and according to the provisions of the article (2nd) of the same article. A date for the argument was scheduled, and both parties were notified by the aforementioned date. For the public in presence of both parties' argument, the agent of the plaintiff repeated what was listed in the petition of the case and requested to judge according to

what was listed in it. As well, the agent of the defendant/ being in this capacity repeated what was listed in the answering draft dated 24/June/2019 and he requested to reject it because the Court previously decided this concern. Whereas nothing left to be said, the Court had made the end of the argument clear and issued the following decision publicly.

The Decision

During scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff already initiated before this Court the case number (194/Federal/2018) against the defendant, the Speaker of the ICR/ being in this capacity (Mohammed Rekan Al-Halbousi) and requested to judge by unconstitutionality and legality of electing the defendant above-mentioned as the Speaker of the ICR. As well, to annul all the constitutional and legal traces based on this procedure and to re-elect the Speaker of the ICR according to the same mechanism stipulated in the Constitution, and to burden the defendant/ being in this capacity with all the fees, judicial expenses, and advocacy fees. In his request, he relied on several reasons, including the reasons he was listed in this case, and after the FSC found that the direct secret ballot process had truly occurred when electing the defendant the Speaker of the ICR/ being in this capacity. The claim of the plaintiff by his agent of some Representatives interfering by pressing and effecting on some Representatives during the voting process, in addition to compelling some Representatives to vote for the defendant/ being in this capacity was not approved by any evidence legally considered and no one of the Representatives claimed he was compelled to vote for the defendant. Accordingly, this Court had decided in case number (194/Federal/2018) on 23/December/2019 to reject the case of the plaintiff Tala Khudair Al-Zobae. Whereas the Court previously took a decision in this case and the provisions issued by the Iraqi Courts became final and plea in the judgment issued for the rights if the case's parties were united and their capacities had not changed if the quarrel related to the same right, in place and reason. Under the provisions of the articles (105) and (106) of the Evidence Law No. (107) for 1979 (amended). Accordingly, and for the union of the case's parties with their same capacities in the case number

(194/Federal/2018) and the quarrel was related to the same right, in place, and reason. The FSC decided the following:

1. To judge by rejecting the case of the plaintiff Talal Khudair Al-Zobae.
2. To burden the plaintiff with the expenses and the advocacy fees of the agent of the defendant/ being in this capacity the legal advisor Haytham Majid Salim amount of one-hundred thousand Iraqi dinars, to be divided according to the law. The decision has been issued unanimously, final, and binding for all powers according to the provisions of article (94) of the Constitution and article (4) of the FSC's Law No. (30) For 2005. The decision has been made clear on 28/April/ 2021 coinciding with 16/Ramadan/1442 Hegira.