

Republic of Iraq  
Federal Supreme Court  
Ref. 72 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 24/5/2023 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul Rahman Suleiman Ali, and Dyar Mohammed Ali, who are authorized in the name of the people to judge and they made the following decision:

The Plaintiffs: the representatives, each of 1. Hussein Ali Hasan Al-Suabri. 2. Mohammed Jassim Mohammed Ali Al-Khafaji. 3. Hayder Mohammed Habeeb Majeed Al-Salami. 4. Amir Abdul Jabbar Ismaeel. 5. Nifooh Hussein Mohammed Al-Musawi. 6. Mohammed Noori Azeez. 7. Mustafa Khaleel Nusaif Al-Karawi. 8. Hayder Mohammed Khadhim Al-Mutairi. 9. Zuhair Shaheed Abdulla Al-Fatlawi. 10. Bassim Khudhair Khadhim Al-Rukabi. 11. Fatin Muhi Muhsin Al-Karagoli. 12. Falah Hasan Hussein Al-Hilali. 13. Taqi Nasir Majid. 14. Ahmed Majeed Mutab. 15. Haytham Abdul Jabbar Mohammed. 16. Adnan Ashour Adnan Al-Jabiri. 17. Saib Khalaf Sahib. 18. Nidaa Hasan Madhi. 19. Ameer Kamil Mohammed. 20. Dhia'a Khadhim Hindi. 21. Hadi Hasan Mreehij. 22. Ala'a Kamil Jabbar Al-Rikabi. 23. Sarwa Abdul Wahid Qadir. 24. Hameed Abbas Abid Alli. 25. Fatima Majeed Hameed. 26. Noor Nafia Ali. 27. Hayder Tariq Abid – their agents are the barristers Uda Yousef Salman and Shawkat Sami Fadhil.

The Defendant: Speaker of the ICR/ being in this capacity – his agents, the legal counselor Haytham Majid Salim and the official jurist Saman Muhsin Ibrahim.

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### **The Request**

The plaintiffs, through the mediation of their agents, claimed that the Speaker of the Council of Representatives took a number of decisions and procedures in the Council of Representatives session numbered (16) on 26/3/2023 in the fifth electoral cycle / second legislative year, the first legislative term, which included many constitutional and legal violations, some of which related to the procedures for convening the session, including the failure to complete the procedures for legislating the proposed amendment of the Provincial and District Councils Elections Law No. (12) of 2018 by the competent committees (the Legal Committee and the Committee of Regions and Governorates that are not organized in a region) and express an opinion on them, and the need to achieve a quorum of attendance to open the session, and the need to distribute draft laws and proposals two days before the session, and the conditions for calling for its convening, which violates Articles (81, 88 / 3<sup>rd</sup>, 5<sup>th</sup>, 24, 9 and 37) of the rules of procedure of the Council of Representatives, the invitation to convene it as a (new session) while the Speaker of the Council did not adjourn session No. (15) on 19/3/2023 and left it open, and its convening was contrary to the constitutional principles established by the Federal Supreme Court in its decisions numbered (21 and unified 29/federal/2015) and (65/federal/2021). Other legal and constitutional violations related to the procedures and decisions taken in the session, including the unilateral decision of the defendant (Speaker of the Council of Representatives / being in this capacity) to introduce an armed force into the Council Chamber, violating Articles (145, 29 and 3) of the Council's Rules of Procedure, which indicated that an armed person may not enter the Council without the approval of the Speaker and his deputies, and the publicity of the sessions of the Council, and the freedom of opinion and expression for all members of the Council, and the violation of the Constitution in Articles (14, 38 /1<sup>st</sup> and 53 /1<sup>st</sup>) that affirmed the principle of equality, freedom of opinion, and the publicity of the sessions of the Council of Representatives, so the plaintiffs asked this court to rule the invalidity and invalidity of the procedures for holding the session of the Council of Representatives numbered (16) on 26/3/2023 and the decisions and procedures taken therein, based on Article (93/3<sup>rd</sup>) of the Constitution, and charging the defendant fees, expenses

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and advocacy fees. The case was registered with this court in number (72/ federal / 2023) and the legal fee was collected for it based on Article (21 / first) of the court's internal system No. (1) of 2022, and the defendant is informed of its petition and documents following item (2<sup>nd</sup>) of the same article, and his agents replied with the reply regulation dated 17/4/2023 it concludes that the recommendations that respond to proposals and projects, whether or not to take them into account are left to the discretion of the presidency of the Council and its members when reading the proposals of laws, which are organizational matters that are outside the jurisdiction of the court, the proposed law - the subject of the lawsuit - was received by the Presidency of the Council and presented within the agenda to the Council of Representatives and was within the correct contexts followed, in addition to the fact that the session took place in accordance with the usual contexts regulated by the provisions of the rules of procedure of the Council of Representatives and there is no violation, and the procedures that show this are recorded in the minutes of the session, which is an official document that may not be challenged except by forgery, in addition to the fact that the proposals and draft laws that come to the Council of Representatives are studied by the competent committees, and their recommendations are submitted therein, and they are read for the first and second time and then voted on, as for the special timings for the sessions of the Council of Representatives, they are left to the discretion of the Presidency of the Council, and according to the agenda that is prepared in advance, the appropriate time for the arrival of the members of the Council is taken into account, also, the request of the Speaker of the Council for the entry of security personnel to maintain order is because the control and management of the session is entrusted to the Speaker of the Council, and he may take the appropriate decisions to maintain the proper management of the session and control it from disrupting the functioning of the Council in accordance with the provisions of article 34/8<sup>th</sup> of the Rules of Procedure of the Council of Representatives, which stipulated (the Speaker of the Council of Representatives shall take the necessary measures to maintain security and order within the Council) and that the two Vice-Chairmen did not object to those procedures, where the members were treated with respect and high discipline by the security personnel, so the defendant's agent requested

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that the plaintiffs' lawsuit be dismissed and charged the fees and expenses. After completing the procedures required by the rules of procedure of the court, a date was set for the consideration of the case without pleading in accordance with Article (21/3<sup>rd</sup>) thereof, and on the appointed day, the court was formed and began to consider the case, the court reviewed the plaintiffs' petition, their grounds and requests, as well as the list of the defendant's agents and their request to dismiss the lawsuit for the reasons stated therein, after the court completed its scrutinies, the end of the minutes has been made clear and the court issued the following decision:

### **The decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiffs' appeal focuses on the procedures for convening the Council of Representatives session No. (16) on 26/3/2023, the fifth electoral session, the second legislative year, and the first legislative term, and the decisions taken therein, as they involve many constitutional and legal violations, part of which is related to the procedures for convening the session, and the other part is related to the decisions taken therein, and the plaintiffs requested a ruling that these procedures and decisions are invalid and invalid because they violate the provisions of the Constitution and the rules of procedure of the Council of Deputies No. (1) of 2022, the court found that the contested session in its procedures and decisions is No. (16) on 26/3/2023, and therefore differs from session No. (15) On 19/3/2023 on the one hand, and the other hand, the irregularities mentioned by the plaintiffs in their petition and the regulation submitted by their agents do not require a ruling that the session is invalid and that its procedures and decisions taken in it are invalid. The entire appeal focuses on procedures related to the maintenance of security and order inside the Chamber of Representatives, the procedures for managing the session, and other organizational matters that are outside the competencies of the Federal Supreme Court specified under Article (93) of the Constitution of the Republic of Iraq for the year 2005, and thus the plaintiffs' lawsuit is subject to dismissal, and for the foregoing, the court decided to dismiss the plaintiffs' lawsuit for lack of

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jurisdiction and to charge them fees and expenses, and attorney fees for the defendant's two agents, the Speaker of the Council of Representatives, being in this capacity, the legal counselor, Haitham Majid Salem, and the official jurist Saman Mohsen Ibrahim, an amount of (one hundred) thousand dinars. The decision has been issued with majority, final, and binding for all authorities according to the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited in the session dated 4/Dhul Qaeda/1444 Hijri coinciding with 24/May/2023 A.D.

**Judge**

**Jassim Mohammed Abbood**

**President of the Federal Supreme Court**

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