

Republic of Iraq
Federal Supreme Court
Ref. 75 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 31/5/2023 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, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Nisan Abdul Ridha Zayer/ member of the ICR, her agents the barristers Ameer Mohammed and Marwa Abdul Ridha.

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.

The Claim

The plaintiff, through her two agents, claimed that in the session of the Council of Representatives numbered (15) dated 20/3/2023, the defendant violated the Rules of Procedure of the Council of Representatives No. (1) of 2022 in Articles (3, 9/1st and 37/First) thereof, which affirmed the freedom of expression of opinion and thought for all members of the Council, and the necessity of distributing the agenda and its attachments to members, and specified the mechanism for preparing and communicating it to members at least two days before the meeting, as the members of the Council were not informed of the date of the session, which was held at dawn on 20/3/2023, in addition to Failure to distribute the agenda, proposed laws, and reports for discussion to the members of the Council, which caused

saady

Republic of Iraq
Federal Supreme Court
Ref. 75 / federal /2023



Kurdish text

many members of the Council to be deprived of expressing their opinions and expressing their ideas, in addition to the fact that the notification took place on the session that was not held for reasons that were not announced, as well as the date of the subsequent session was not notified, and since the convening of the session without announcing its date makes it a secret session, which violates paragraph (1st) of Article (53) of the Constitution of the Republic of Iraq for the year 2005, which confirmed the publicity of the sessions of the Council of Representatives, so the plaintiff asked this court, based on the provisions of Article (52/2nd) of the Constitution, to rule to cancel the session by number (15) and all decisions. which was issued in light of its convening. The lawsuit was registered with this court in the number (75/federal/2023), and the legal fee was collected for it, and the defendant was informed of its petition and documents in accordance with Article (21/1st and 2nd) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, and his agents replied with the answering draft dated 17/4/2023, its conclusion is that the constitutional text that the lawsuit caused concerns the challenge to the validity of the membership of a member of the Council of Representatives and is not related to the plaintiff's request, the session - the subject of the lawsuit - was held with a quorum in accordance with the rules of procedure of the Council of Representatives in Article (23) thereof, and it is a legitimate session that took place in accordance with the rules of procedure and the provisions of the rules of procedure and is not blemish in accordance with the agenda specified and announced in advance, and that the timing of the session to suit the members of the Council does not violate the provisions of the rules of procedure, and the convening of sessions, their management and organization in accordance with the rules of procedure of the Council of Representatives regulate their manner, management

saady

Republic of Iraq
Federal Supreme Court
Ref. 75 / federal /2023



Kurdish text

and control by the Speaker of the Council, and are considered organizational matters whose validity is outside the competences of the Council. The Federal Supreme Court specified following Article (93) of the Constitution, and the Court had previously issued a decision to this effect in the lawsuit numbered (51/Federal/2009) dated 12/10/2009, so they requested the dismissal of the plaintiff's lawsuit and charging her judicial fees, expenses, and advocacy fees. After completing the procedures required by the court's rules of procedure, a date was set for the consideration of the case without pleading in accordance with Article (21/3rd) thereof, and on the appointed day, the court was formed, and the case began to be considered, the court checked what was stated in the plaintiff's petition and what was stated in the response list of the defendant's agents, and 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 plaintiff's lawsuit is focused on demanding the cancellation of the session of the Council of Representatives No. (15) on 20/3/2023 for violating the Rules of Procedure of the Council of Representatives No. (1) of 2022, Articles (3, 9, and 37/ 1st) thereof, based on the provisions of Article (52/2nd) of the Constitution, due to the failure to inform the deputies of the date of the session and not to distribute the agenda two days before the convening, in addition to the fact that the session was not held on its accurately reported date, which makes it a secret session contrary to the provisions of Article (53) of the Constitution of the Republic of Iraq for the year 2005, which caused the deputies to be deprived of expressing their opinions. The court finds

saady

Republic of Iraq
Federal Supreme Court
Ref. 75 / federal /2023



Kurdish text

through reviewing the case file, its attachments, and the parties' defenses and requests that the subject matter of the appeal is related to regulating matters outside the jurisdiction of the court contained in Article (93) of the Constitution, and it is the competence of the defendant (Speaker of the Council of Representatives / being in this capacity) because it is related to the order of the session, its management and notification of members, and thus the plaintiff's lawsuit is subject to dismissal; for lack of jurisdiction and to burden fees, expenses and fees of the defendant's agents/ being in this capacity, legal counselor Haitham Majed Salem and the official jurist Saman Mohsen Ibrahim, an amount of (one hundred) thousand dinars to be distributed between them in accordance with the law. 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 on the session dated 11/Dhul Qaeda/1444 Hijri coinciding 31/May/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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