

Republic of Iraq
Federal Supreme Court
Ref. 276 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 27/12/2023 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: 1. Minister of Agriculture/ being in this capacity.
2. Director-General of Plant Protection Department.

Their agent the official
jurist Fahrhan Abu Al-
Shoon Yaseen

The Defendant: Speaker of the ICR/ being in this capacity – his agent the official jurist Saman Muhsin Ibrahim.

The Claim

The plaintiffs claimed through their agent that a draft law amending the Agricultural Quarantine Law No. (76) of 2012 had already been prepared, and after being checked by the Legal Department at the Ministry of Agriculture and the State Council and submitted by the Council of Ministers, it was approved by the Council of Ministers under Resolution No. (389) of 2017, and it was sent to the Council of Representatives under the letter of the General Secretariat of the Council of Ministers / Department of Cabinet Affairs and Committees No. (Shin.Zin.Lam./10/1/3/10/038085) on 22/11/2017, but some paragraphs of the draft law were changed when it was read and approved. For what was stated in the draft amendment that was prepared, drafted and audited by the relevant authorities, in order to ensure the achievement of the public interest, Law No. (3) of 2020 (the first amendment to the Agricultural Quarantine Law No. 76 of 2012) was issued after its ratification and publication in the Iraqi Gazette No. (4577) on 10/2/2020, which included removing phrases from the draft law and adding other texts, so the plaintiffs' agent asked this court to rule obliging the defendant to amend Articles (3, 4, 5) of Law No. (3) of 2020 (the first amendment to the Agricultural Quarantine Law No. 76 of 2012) in accordance with What is stated in the

saady

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Ref. 276 / federal /2023



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aforementioned draft amendment, and charging fees, expenses and advocacy fees. The lawsuit was registered with this court in number (276/Federal/2023) and the legal fee was collected and the defendant was informed of its petition and documents in accordance with Article (21/ first and second) of the internal regulations of the Federal Supreme Court No. (1) of 2022, and his agent replied with the reply regulation dated 26/11/2023, which included detailed defenses in which he concluded the request to dismiss the lawsuit due to the court's lack of jurisdiction to consider it. After completing the procedures required by the Rules of Procedure of the Court set a date for hearing the case without pleading in accordance with Article (21/3rd) thereof, in which the court was formed and the case began to be heard, the court examined the plaintiffs' requests and their grounds and the defenses of the defendant's attorney, after completing its audits, the end of the minutes has been made clear and the court issued the following ruling:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiffs' lawsuit focused on demanding that the defendant oblige the Speaker of the Council of Representatives, in addition to his job, to amend Articles (3, 4 and 5) of Law No. (3) of 2020 First Amendment Law to the Agricultural Quarantine Law No. (76) of 2012, according to what was stated in the draft amendment law, which was prepared, drafted and audited by all relevant authorities, in order to ensure the achievement of the public interest and sent to the Council of Representatives under the letter of the General Secretariat of the Council of Ministers No. (Shin.Zin.Lam./10/1/3/10/38085) on 22/11/2017, and the Federal Supreme Court finds that its competences and powers are limited under Article (93) of the Constitution of the Republic of Iraq for the year 2005, and not among those powers is obliging the Council of Representatives to amend the legal texts, and thus the plaintiffs' lawsuit is subject to dismissal, in view of the foregoing, the Federal Supreme Court decided as follows:

First: Ruling on dismissing the plaintiffs' lawsuit, the Minister of Agriculture and the Director General of the Department of Plant Protection, being in their capacity for lack of jurisdiction.

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Federal Supreme Court
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Second: Charging the plaintiffs / being in their capacity with fees, expenses and advocacy fees of the defendant's agent, Speaker of the Council of Representatives/ being in this capacity, official jurist Saman Mohsen Ibrahim, an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, 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 5/2nd) 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 13/Jamada Al-Akhira/1445 Hijri coinciding with 27/December/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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