

Republic of Iraq
Federal Supreme Court
Ref. 320 / 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 Plaintiff: Ameer Thaer Abdul Khadhim Mukheef.

The Defendant: Speaker of the ICR/ being in this capacity – his agents, the official jurists Saman Muhsin Ibrahim and Aseel Sameer Rahman.

The Claim

The plaintiff claimed in his petition that the Iraqi Council of Representatives had previously enacted Health Insurance Law No. (22) of 2020, and because the aforementioned law violated the provisions of the Iraqi Constitution of 2005, he, therefore, took the initiative to appeal it before this court for the reasons referred to in detail in its petition, and because he is an employee. In one of the ministries of the Iraqi state, his mandatory participation in health insurance according to the law - the subject of the appeal - leads to him being directly exposed to harm, so he asked this court to rule to cancel Health Insurance Law No. (22) of 2020. The case was registered with this court and the legal fee was paid. On her behalf, she informs the defendant of her petition and documents in accordance with Article (21/First and Second) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, The defendant's agent/in addition to his position responded in the answer statement dated 12/24/2023 that the law - the subject of the appeal - was enacted by the Council of Representatives in accordance with its constitutional authority in accordance with the provisions of Article (61/First) of the effective Constitution of 2005, and does not violate any of the constitutional texts, It aims to ensure the quality of health services, and that citizens of all categories, whether employees in the public or private sector or retirees, have access to them, achieve

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the principle of social solidarity, and reduce the financial burdens on those covered by the provisions of the law - the subject of the appeal - and since the subject of the case was previously decided by the court in its decision on the number (60/Federal/2022) dated 5/14/2023, which became an argument for the rulings that were decided upon, so they requested that the plaintiff's lawsuit be dismissed and that he be charged the legal fees, expenses, and advocacy fees, after completing the procedures required by the court's bylaws, a date was set to hear the case without pleading, in accordance with Article (21/Third) thereof. The court was formed and the case began to be heard. The court examined the plaintiff's requests, his substantiation, and the defenses of the defendant's two agents. As the court completed its scrutiny, the end of the minutes has been made clear, and the court issued the following ruling:

The decision:

Upon examination and deliberation by the Federal Supreme Court, it became clear that the plaintiff filed a lawsuit against the defendant, the Speaker of the Council of Representatives, being in this capacity to challenge the unconstitutionality of Health Insurance Law No. (22) of 2020, based on its violation of the provisions of the Constitution of the Republic of Iraq for the year 2005 in Articles (2/ First - C and 31/First) of it, which stipulate that (no law may be enacted that conflicts with the basic rights and freedoms contained in this Constitution), (Every Iraqi has the right to health care, the state is concerned with public health, and guarantees means of prevention and treatment by establishing various types of hospitals and health institutions) and requested a ruling to be unconstitutional and abolished, for the reasons indicated in detail in its petition, the Federal Supreme Court finds that the plaintiff's lawsuit must be rejected because its subject matter has already been decided, based on the ruling issued by this court, No. (60/Federal/2022) dated 5/14/2023. This is because the rulings issued by this court are final and binding on all authorities and persons based on Provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005, Article (5/second) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021, and Article (36) of the Internal Regulations of the Federal Supreme Court No. (1) For

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the year 2022, the rulings issued by the Iraqi courts that have attained final status are evidence against all people regarding the rights they have decided upon, and it is not permissible to accept evidence that refutes the validity of final rulings based on the provisions of Articles (105 and 106) of the Evidence Law No. (107) of 1979 as amended, and since the Federal Supreme Court decided to rule as follows:

First: The lawsuit of the plaintiff, Amir Thaer Abdul Kadhim Mukhaif al-Jubouri, was dismissed because its subject matter had previously been decided in accordance with the ruling issued by this court, No. (60/Federal/2022) dated 5/14/2023.

Second: Charge the plaintiff with the fees, expenses, and advocacy fees of the defendant's agent, in addition to his job, 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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