

Republic of Iraq
Federal Supreme Court
Ref. 101 / Federal / 2022



The Federal Supreme Court (F.S.C.) convened on 12.5.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

The appellant:

The judge Mohsen Abdel al-Jabri/ Judge of the Nasiriyah Court of Investigation/ Integrity - Presidency of the Dhi Qar Federal Appeal Court.

The text is contested as unconstitutional:

The Article (12/first and third) from the Law on Compensation for Those Affected by War Operations, Military Mistakes and Terrorist Operations No. (20) of 2009).

The Appeal summary:

Through scrutiny, it became clear that the judge of the Nasiriyah Investigation Court specialized in integrity issues at the Presidency of the Federal Court of Appeal of Dhi Qar is challenging the unconstitutionality of Article (12/first and third) of the Law on Compensation for Those Affected by War Operations, Military Mistakes and Terrorist Operations No. (20) of 2009, according to its regulations Dated 10/3/2022 sent to the Federal Supreme Court accompanied by the letter of the presidency of the Federal Court of

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Appeal of Dhi Qar / Office of the Chief of Appeal in No. 8 / A / Office / 2022/1540 on 3/22/2022, on the occasion of its consideration of the case No. 171 / Section 4 / 2022), related to a complaint filed by a person benefiting from the Law on Compensation for Those Affected by War Operations, Military Mistakes and Terrorist Operations No. (20) of 2009, as its summary included the following: (Article (12/third) of the aforementioned law stipulates (for those covered by provisions This law combines his entitlement from the pension salary of the martyr and the injured person with a disability of 50% or more and any pension share or social welfare salary or any other salary), and paragraph (first) of the same article mentioned above refers to the entitlement included in Paragraph (Third) to a pension equivalent to Triple H d The minimum pension salary stipulated in the Unified Retirement Law No. (9) of 2014 or any law replacing it, and since the Constitution of the Republic of Iraq for the year 2005 indicated in Article (14) of it that Iraqis are equal before the law without discrimination based on gender, race or Nationality, origin, colour, religion, sect, belief, opinion, economic or social status, and the fact that the legislation of Article (12/first and third) of the aforementioned law violates the principle of equality between Iraqis by distinguishing between them despite Article (132/first) Secondly) of the aforementioned constitution, it referred to the state's guarantee of care for the families of the martyrs, political prisoners, and those affected by the arbitrary practices of the former dictatorial regime, as well as compensating the families of the martyrs and those injured as a result of terrorist acts. However, this care should not violate the principle of equality among the Iraqi people, which requires addressing For the text of Article (12/First and Third) of the

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Law on Compensation for Those Affected by War Operations, Military Mistakes and Terrorist Operations No. (20) of 2009, and ruling its unconstitutionality and cancellation based on the provisions of Article (93) of the Constitution of the Republic of Iraq for the year 2005 and Article (4) of the Federal Supreme Court Law No. (30) for the year 2005 amended by Law No. (25) for the year 2021 and Article (3) of the internal system of the Federal Supreme Court No. (1) for the year 2005)). The constitutionality of paragraphs (first and third) of Article (12) of the aforementioned law.

The decision:

Upon examination and deliberation by the Federal Supreme Court, it became clear that the challenge to unconstitutionality is focused on the provisions of Article (12) of the Law on Compensation for Those Affected by War Operations, Military Mistakes and Terrorist Operations No. (20) of 2009, paragraphs (first / a) and (third) thereof, Where the paragraph (first / a) of it stipulates (for the families of the martyr and the injured person with a disability of 75% to 10%, a monthly salary equal to three times the minimum pension salary stipulated in the Unified Retirement Law No. (9) of 2014 or any law that replaces it), Paragraph (Third) thereof stipulates that “the person covered by the provisions of this law may combine his entitlement from the pension salary of the martyr or the injured person with a disability rate of 50% or more and any pension share or social welfare salary or any other salary,” on the basis of their violation of the provisions of Article (14) of the constitution The Republic of Iraq for the year 2005, which stipulated (Iraqis are equal before the law without discrimination on the grounds of gender, race,

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nationality, origin, color, religion, sect, belief, opinion, economic or social status) and Article (16) thereof, which stipulates (equal opportunities is a right Guaranteed for all Iraqis, and guaranteed The State shall take the necessary measures to achieve this), and the Federal Supreme Court finds that the Constitution of the Republic of Iraq of 2005 obligated the State to guarantee the care of the families of the martyrs, political prisoners and those affected by the arbitrary practices of the former dictatorial regime, and to compensate the families of the martyrs and those injured as a result of terrorist acts, based on the provisions of Article (132/First). And secondly, as stipulated in Paragraph (Third) of the same article that “what is stated in items (First) and (Second) of this article shall be regulated by a law” Military Operations, Military Mistakes and Terrorist Operations No. (20) of 2009, in its paragraphs (I/A and III) came in response and implementation of the provisions of Article (132) of the aforementioned Constitution, to compensate those covered by its provisions and their families from the difficult circumstances they suffered, embodied in family, emotional, economic and social deprivation Especially the martyrs and their families and the other groups that were included in the text for sacrificing the most precious and precious for the sake of the homeland, its sovereignty, and independence, which requires distinguishing them in terms of their entitlement to the pension, as well as the combination of the pension and any other salary. In accordance with what is stipulated in the aforementioned paragraphs (first/a and second) of Article 12 of the Law on Compensation for Those Affected by War Operations, Military Mistakes and Terrorist Operations, and this is not considered a violation of the principles of equality and equal opportunities

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stipulated in Articles (14 and 16) of the Constitution, no Especially since the aforementioned two principles apply to all persons who are in equal legal positions based on the conditions available to them that the legal rule requires for their applicability to them according to educational qualification, educational attainment, experience, age, residence or classification within a certain category such as martyrs, injured or political prisoners Or those affected by terrorist acts or those affected by the former regime or their families, which means that the groups mentioned in the text subject to challenge are in equal legal positions, and the text applies to them exclusively without others based on the generality and abstraction of the text. In addition to the foregoing, the provisions of Article (12/Third) of the Law of Compensation for Those Affected by War Operations, Military Mistakes, and Terrorist Operations, the aforementioned, as amended by Article (20/First) of the Federal Budget Law the decree of the Republic of Iraq for the fiscal year 2021, which stipulates (all legal texts that allow the combination of two or more salaries for those holding the position of Director-General to be upwards shall be cancelled), and that the Federal Supreme Court ruled in its ruling issued in No. (114//2021) on 10/27/2021 The constitutionality of the aforementioned text, as the case related to the appeal against its unconstitutionality was rejected, due to the absence of a constitutional violation, which means that the Federal Supreme Court ruled the constitutionality of Article (12/Third) of the Law on Compensation for Those Affected by War Operations, Military Mistakes and Terrorist Operations mentioned above, as amended by Article (20) / First) of the Federal General Budget Law of the Republic of Iraq for the fiscal year 2021, and for the absence of a

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constitutional violation, which requires the appeal to be rejected, and for the foregoing, the Federal Supreme Court decided to reject the appeal of the unconstitutionality of Article (12 / first and third) of the Law on Compensation for Those Affected by War Operations, Military Mistakes and Operations Terrorist No. (20) of 2009, and the decision was issued by a final majority based on the provisions of Articles (93/First and 94) of the Constitution and Article (5) of the Federal Supreme Court Law No. (3) 0) for the year 2005, as amended by Law No. (25) for the year 2021, and issued in the session dated Shawwal 10/1443 AH corresponding to 5/12/2022 AD.

Signature of
The president
Jasem Mohammad Abbood

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