

Republic of Iraq
Federal Supreme Court
Ref 113/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 21/5/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Khalaf Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali ,Munther Ibrahim Husain, and Jassim Jazaa Jaafr who are authorized in the name of the people to judge and they made the following decision:

The Plaintiffs:

- 1- Raad Rifaah Mohammed Mawlood.
- 2- Ako Mohammed Mahmoud.
- 3- Ali Ahmed Ali Baban.

The Defendants:

- 1- The Federal Prime Minister / being in this capacity - His agent the legal adviser Haider Ali Jaber.
- 2- Federal Minister of Finance / being in this capacity - His agent the human rights employee Amer Abbas Qadir.
- 3- The Prime Minister of the Kurdistan Region - Iraq / being in this capacity.
- 4- Minister of Finance and Economy of the Kurdistan Region - Iraq / being in this capacity.

The Claim:

The plaintiffs claimed that after the issuance of the court's decision No. (224 and its unit 269/Federal/2023), which included the obligation to localize the salaries of the region's employees, retirees and beneficiaries of the social protection network, and to remove salaries from the existing disputes between the regional government and the government, regardless of the commitment of the two governments and the region's share in the budget, by deducting salaries from the region's share specified under the budget law for the year 2023 and for the coming

Zainab

Republic of Iraq
Federal Supreme Court
Ref 113/ federal/2024



Kurdish text

years, especially since the Federal Budget Law of the Republic of Iraq for the fiscal years (2023-2024-2025) No. (13) of 2023 entered into force on 1/January/2023, all of this resulted in the issue of non-receipt of the salaries of the three months (October, November, December) for the year 2023, and each of the defendants evaded the implementation of the court's decision as the defendants threw the first and second (the Federal Prime Minister and the Federal Minister of Finance) blamed the third and fourth defendants (the Prime Minister of the Region and the Minister of Finance and Economy) for non-payment of the three salaries, the third and fourth defendants even claimed that the first and second defendants had to pay the three salaries, which harmed the plaintiffs' financial rights, as they were teachers on the staff of the Kurdistan Regional Government and did not receive their dues for those months, compared to their consorts in other Iraqi ministries, while the court's decision is clear and accurate in equality between the employees of the Iraqi state in all its regions and governorates, whereas Article (13/8th) of the aforementioned Budget Law obligated the Kurdistan Regional Government to give priority to the payment of the salaries of the region's employees and retirees, and obligated the Federal Prime Minister to take the necessary measures, including funding, but the Prime Minister violated Article (2) of the Internal Regulations of the Council of Ministers No. (2) of 2019 which defined the functions of the Council, including issuing decisions with a view to implementing laws and following up on the proper implementation of the general budget. The Prime Minister of the Kurdistan Region and the Minister of Finance and Economy violated Article (8/7) of the Kurdistan Region Council of Ministers Law No. (3) of 1992, which obligated the Kurdistan Regional Government to apply the laws and preserve the rights of citizens and the interests of the Kurdistan people, which led to abuse of power and the

Zainab

Republic of Iraq
Federal Supreme Court
Ref 113/ federal/2024



Kurdish text

deviation of the just governance process, which is a violation of Iraqi laws and based on Article (93/3rd) of the Constitution, so the plaintiffs asked this court to resolve the issue of paying the three salaries after the court decision was issued and the plaintiff was obliged they shall pay it, and after registering the case with this court No. (113/Federal/2024) and collecting the legal fee for it, and informing the defendants of its petition and documents in accordance with Article (21/1st and 2nd) of the Court's Rules of Procedure No. (1) of 2022, the first defendant's agent replied with the reply statement dated 2/5/2024, its conclusion: that the plaintiffs' request is outside the jurisdiction of the court in addition to the fact that the litigation is not directed towards his client, as the Ministry of Finance is the only authority authorized to approve the release of cash amounts for current and capital expenditures of expenditure units in accordance with Article (16/3rd) of the Financial Management Law No. (6) of 2019, as amended, and his client has demanded the Ministry of Finance to implement the court's decision, according to the letter of the General Secretariat of the Council of Ministers / Legal Department in number (Sin/2/2/68/42/1971) on 18/4/2024 Based on Article (94) of the Constitution, considering that the decisions of the Federal Supreme Court are final and binding on all authorities pursuant to the provisions of the Internal Regulations of the Federal Council of Ministers No. (2) of 2019, so the judgment requested to reject of the appeal and charging the plaintiffs expenses, fees and attorneyship fees, the second defendant's agent replied in the reply dated 21/5/2024, its conclusion: that his client has taken the necessary action entrusted to him in accordance with the law in implementation of the Council of Ministers Resolution No. (23520) of 2023 amended by resolution (3500) of 2023, as he granted the Kurdistan Regional Government a loan in the amount of two trillion and one hundred billion

Zainab

Republic of Iraq
Federal Supreme Court
Ref 113/ federal/2024



Kurdish text

dinars in three equal payments of seven hundred billion dinars for each payment to pay the salaries of employees, those covered by social welfare and retirees in the Kurdistan Region, and deposited an amount with banks (Al-Rafidain, Al-Rasheed and the Iraqi Bank for Trade) note that the distribution of salaries for each of the employees, those covered by social welfare and retirees in the region is outside the jurisdiction of his client's department and falls within the competence of the competent authorities in the Kurdistan Region, therefore, he requested to reject the lawsuit upon of his client and charge the plaintiff with fees, expenses and all efforts 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, in which the court was formed and the case began to be heard, the court scrutinized the plaintiffs' requests, their supports and the defenses of the first and second defendants' agents under the regulations attached to the lawsuit file, according to which they requested to reject the lawsuit for the reasons stated therein the court noted that the third and fourth defendants did not respond and after the court had 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' lawsuit focused on a request to oblige the defendants (the Federal Prime Minister, the Federal Minister of Finance, the Prime Minister of the Kurdistan Region, and the Minister of Finance and Economy of the Kurdistan Region in addition to their jobs) to pay their salaries and the salaries of employees in the Kurdistan Region for the months (October, November, December) for the year 2023 and to

Zainab

Republic of Iraq
Federal Supreme Court
Ref 113/ federal/2024



Kurdish text

charge them fees and expenses. Whereas the competences of this Court are defined by Articles (52 and 93) of the Constitution of the Republic of Iraq of 2005, and Article (4) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and not among those competencies to consider the requests stated by the plaintiffs in their petition, therefore, the consideration of the subject matter of the plaintiffs' lawsuit is outside the competences of this court specified in the aforementioned articles, and therefore their claim must be rejected, for lack of jurisdiction, and accordingly the Federal Supreme Court decided to reject the plaintiffs' lawsuit (Raad Rifah Mohammed Mawlood ,ako Mohammed Mahmoud and Ali Ahmed Ali Baban) for lack of jurisdiction and charging them all judicial fees and expenses, including attorneyship fees for the first and second defendants, being in their capacity, the official jurists Haider Ali Jaber and Amer Abbas Qadir its amount is one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, final and binding in accordance with the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq of 2005, and (4 and 5/2nd) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and it has been made clear in the session dated 12/Dhu al-Qa'dah/1445 A.H. corresponding to 21/5/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

Zainab