

Republic of Iraq
Federal Supreme Court
Ref 118/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 2/7/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Hatef Mohsen Kazim

The Defendants: 1. The Prime Minister / being in this capacity - His agent the legal adviser Haider Ali Jaber.

2. Minister of Foreign Affairs / being in this capacity.

The Claim:

The plaintiff claimed that Iraq had been exposed decades ago to the most serious environmental disaster in human history, represented by depleted uranium radiation, the resulting cancerous diseases and the killing of hundreds of thousands of Iraqis whose economic and agricultural damage will continue on future generations in particular those relating to oil, energy and the Iraqi environment as a result of the Israeli aggression against nuclear installations in 1981, the subsequent attacks by the international coalition forces and the issuance of UN Security Council Resolution (487) of 1981, and the international resolutions issued from the United Nations General Assembly and the International Atomic Energy Agency, and the subsequent resolutions of the United Nations Security Council in 2010, which included the restoration of Iraq international status and its right to claim compensation and activate the issue before the international community, and successive governments after the fall of the former regime sought to form committees and legal and technical teams that seek to demand

Zainab

Republic of Iraq
Federal Supreme Court
Ref 118/ federal/2024



Kurdish text

internationally, the last of which was the Office Order Committee (23514 of 2023 - and the plaintiff is one of its members), and after starting its work and before submitting its report the office of the first defendant, the Prime Minister, issued its letter No. (3002/2399037) on 30/10/2023, which includes the termination of the committee's work based on a letter from the second defendant, the Minister of Foreign Affairs, and the amount in the letter of the Office of the First Deputy Speaker of the Council of Representatives No. (3079) on 6/12/2023, and since this decision was contrary to the Constitution and the legislation in force, so the plaintiff asked this court to rule to cancel the letter the aforementioned Prime Minister's Office for violating Article (50) of the Constitution, and obliging the defendants, being in their capacity, to proceed with the procedures of the Committee to prepare and work to claim compensation before the United Nations and the international criminal judiciary through Iraq relationship with major and friendly countries in the Security Council, and to make recommendations to claim internationally and identify the countries that caused damage to Iraq, obliging the second defendant (the Ministry of Foreign Affairs) to take its real role, determine the moral and material damages in coordination with the Office Order Committee team and communicate with the International Atomic Energy Agency and the countries directly related to the peaceful Iraqi nuclear project. After registering the case with this court No. (118/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 responded with the reply regulation dated 6/6/2024 and requested to reject of the lawsuit, due to the lack of jurisdiction of the court to consider it and the lack of interest condition for it of its residence before the court, and that his

Zainab

Republic of Iraq
Federal Supreme Court
Ref 118/ federal/2024



Kurdish text

client issued a directive to terminate the work of the committee to be considered later to take the appropriate decision in accordance with the political and international circumstances and in accordance with his constitutional powers specified in Article (78) of the Constitution as the direct executive responsible for the general policy of the state for the international judicial claim and according to the political and international circumstances, which are the main factor that leads to the success of the judicial claim article (12) of the Internal Regulations of the Council of Ministers No. (2) of 2019 stipulates that (the Council may form committees from among its members or state employees to carry out certain tasks...) whereas the office order therefore, the subject of the ratification of the recommendations of the committee - the subject of the appeal - is the competence of the Council of Ministers, so his client has considered in accordance with the constitutional powers specified in Article (78) thereof, and in accordance with his legal duties specified in Articles (14 and 15) of the rules of procedure of the aforementioned Council of Ministers with the integrity of the legal basis for the formation of the aforementioned committee and the subject of ratification of its recommendations to ensure the adoption of results based on a solid constitutional and legal basis for the initiation of procedures Litigation before international courts, and where his client issued his book - the subject of the appeal - based on the opinion of the technical jurisdiction authority (Ministry of Foreign Affairs) in its letter No. (1233) dated 11/10/2023 to wait and consider later the recommendations to take the appropriate decision in accordance with the political and international circumstances. After completing the procedures required by the Rules of Procedure of the Federal Supreme Court, a date was set for the consideration of the case without pleading based on article (21/3rd) thereof, in which the court was formed and the

Zainab

Republic of Iraq
Federal Supreme Court
Ref 118/ federal/2024



Kurdish text

case was considered, the court scrutinized the plaintiff's evidence, requests and the defenses of the first defendant's agent, and after completing 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 (Hatif Mohsen Kazim Al-Rikabi) filed this lawsuit litigating each of the The Prime Minister and the Minister of Foreign Affairs / being in their capacity, claiming that he was a member of the Office Order Committee No. (23514) for the year 2023, which includes the formation of a working group to seek the issuance of a resolution by the United Nations Security Council on compensating the Republic of Iraq for the damage it suffered during the Gulf War in 1991, 1998 and 2003, and for the same reasons under which the United Nations Security Council Resolution No. (487) of 1981 was issued to compensate the Republic of Iraq for the damage it suffered as a result of the destruction of its nuclear facilities in 1981, and the letter of the Prime Minister's Office No. (3002/2399037) was issued on 30/10/2023 containing the termination of the work of Committee of the aforementioned Office Order despite its importance to the country, the fact that Iraq has already been subjected for three decades to the strongest and most dangerous military, biological and nuclear attacks and aggressions and radiation, which caused many scourges, tragedies and diseases, as well as the destruction of its peaceful nuclear facilities, despite the existence of international resolutions which allows Iraq to claim compensation, as the decision of the first defendant, the Prime Minister, being in this capacity, came to torpedo all the efforts that were made, based on the fact that the termination of the work of the said

Zainab

Republic of Iraq
Federal Supreme Court
Ref 118/ federal/2024



Kurdish text

committee was based on the fact that it had submitted its technical report, while the team formed under the aforementioned Office order is a legal team and not a technical team, the decision to cancel was based on the letter of the second defendant, the Minister of Foreign Affairs, being in this capacity, which ignored all these matters, and therefore the decision of the first defendant the abolition of the said committee violated the provisions of Article (50) of the Constitution, which obliges the Prime Minister to swear an oath to perform his legal duties and responsibilities, taking into account the interests of his people and other legal texts therefore, he requested that the defendants be summoned, being in their capacity, to plead and rule to cancel the letter of the Prime Minister's Office, which includes the suspension of the aforementioned Office Order Committee, and to oblige the defendants, being in their capacity to follow the procedures of the Office Order Committee in preparation for claiming compensation before the international international and judicial authorities and to oblige the second defendant, the Minister of Foreign Affairs, being in this capacity, to take his real role and determine the moral and material damages in coordination with the aforementioned Office Order Committee team, and to communicate with the International Atomic Energy Agency and the countries that have direct link to the peaceful Iraqi nuclear project. The court reviewed the answer of the first defendant's agent, the Prime Minister, being in this capacity under his regulation dated on 6/6/2024, which included a request to reject the lawsuit in form, due to the lack of jurisdiction of the court in its consideration and the lack of interest condition in the plaintiff based on the provisions of Article (20/I) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, he also requested to reject of the plaintiff's claim on the merits being the termination of the work of the said committee came in accordance with

Zainab

Republic of Iraq
Federal Supreme Court
Ref 118/ federal/2024



Kurdish text

the constitutional powers granted to the Prime Minister in accordance with Article (78) of the Constitution, in his capacity as the direct executive officer for the general policy of the state, in addition to the fact that his client has issued the contested letter based on the opinion of the competent authority, namely the Ministry of Foreign Affairs, which asked to wait on the subject of the work of the committee and to consider later the recommendations to take the appropriate decision in accordance with the political and international circumstances, and the Federal Supreme Court finds that the plaintiff has asked the court three requests, the first: is to cancel the letter of the office of the President the Council of Ministers No. (3002/2399037) on 30/10/2023 suspending the Committee of the Office Order No. (23514) of 2023, the second is to oblige the defendants, being in this capacity, to follow the procedures of the aforementioned Office order, and the third: to oblige the second defendant, being in this capacity, to take his real role in determining the material and moral damages in coordination with the Office Order Committee team and to communicate with the International Atomic Energy Agency and countries directly related to the peaceful Iraqi nuclear project, and since the competencies of the Federal Supreme Court were clear in the text of Article (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 it did not include what was mentioned in the plaintiff's requests, as the request to cancel the issued book of the Prime Minister's Office is the subject of a lawsuit that jurisprudence and the judiciary have agreed to call a lawsuit (annulment), in which the plaintiff requests to monitor the legality of the administrative decision contained in the contested letter, which is outside the jurisdiction of this court, which is competent to adjudicate cases arising from the application of federal laws, the decisions,

Zainab

Republic of Iraq
Federal Supreme Court
Ref 118/ federal/2024



Kurdish text

regulations, instructions and procedures issued by the federal authority and not the adjudication of their cancellation, nor does it fall within the jurisdiction of the court to oblige the executive authority, ministries or administrative bodies to take a specific action, so the plaintiff's lawsuit is subject to reject, as it is outside the jurisdiction of this court, and for all of the above and by request, the Federal Supreme Court decided the following:

First: Ruling on rejecting the plaintiff's lawsuit Hatif Mohsen Kazim, for lack of jurisdiction.

Second: Charging the plaintiff with the fees, expenses and advocacy fees of the first defendant's agent, the Prime Minister, being in this capacity, the legal adviser Haider Ali Jaber, an amount of (100,000) one hundred thousand dinars distributed in accordance with the law.

The decision has been issued unanimously, final and binding based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq of 2005, and Articles (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 edited in the session dated 25/Dhu al-Hijjah/1445 A.H. corresponding to 2/7/2024 AD.

Judge
Jassim Mohammed Abood
President of the Federal Supreme Court

Zainab