

Republic of Iraq  
Federal Supreme Court  
Ref 119/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 13/5/2024 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: Raed Hamdan Al-Maliki / Member of the Parliamentary Legal Committee - His agent the barrister is Raad Abdul-Jabbar Rahima.

The Defendant: Speaker of the Council of Representatives / being in this capacity – his two agents the official jurists Saman Mohsen Ibrahim and Aseel Samir Rahman.

**The Claim:**

The plaintiff claimed through his agent that the defendant in addition to his job issued a law canceling the financial privileges of state officials No. (28) of 2019, Article (2/3<sup>rd</sup>/Dal) thereof stipulates (continuing to work not to allocate a car to members of the Council of Representatives) while allowing other categories and addresses of employees and those charged with public service to allocate them cars, this contradicts the principle of equality stipulated in Article (14) of the Constitution, according to which individuals are equal before the law without discrimination between them in the acquisition and exercise of rights and the assumption and performance of obligations, the legislator discriminated without regard between state officials without benefit or justification, it is illogical to allow the allocation of means of transportation to facilitate the work of all state officials this is forbidden

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to members of the Council of Representatives, including the minister and his grade, the director general and his grade, and even those who are below the degree of the director general, knowing that members of the Council of Representatives from different governorates, including the plaintiff and some governorates are more than (400) kilometers away, and that the communication of the deputy with his constituents and the people is necessary to exercise the representative role entrusted to him, and that the legislation of this law was important to cancel the unacceptable privileges of officials, but the allocation of a car for the work of the deputy is not his property, but rather he returns it after the end of his term, and it is not considered a privilege, and most of the privileges for deputies have been abolished, except for the salary on which the deputy depends for his expenses and those who help him in his work, if saying otherwise will affect the work of the representative and may be a reason for his poor performance or influence his decision as a result of his need, he must request a ruling that Article (2/3<sup>rd</sup>/Dal) of Law No. 28 of 2019 is unconstitutional for violating the provisions of Article (14) of the Constitution, and charging the defendant fees, expenses and attorneyship fees. After registering the case with this court No. (119/Federal/2024), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1<sup>st</sup> and 2<sup>nd</sup>) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, his agents replied with the reply regulation dated 6/5/2024, its conclusion: that the text - the subject of the challenge - was a legislative choice for the Council of Representatives and based on the powers stipulated in Article (61/1<sup>st</sup>) of the Constitution, and that the equality intended in Article (14) of the Constitution is equality in one case. Not the different cases, and this is what the judgment of this court has settled on in several cases, and the plaintiff's request violates the

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principle of separation of powers contained in Article (47) of the Constitution, since responding to the plaintiff's request leads to an increase in financial burdens of the State, this matter falls within the powers of the executive authority (the government), especially since the essence of the matter requires legislative intervention if its reasons and circumstances are available, so they requested to reject of the plaintiff's lawsuit and charging him fees, expenses and attorneyship fees. After completing the procedures required by the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, an appointment was set for the pleading in accordance with Article (21/3<sup>rd</sup>) thereof and notified to the parties in it, the court was formed, and the agents of the parties attended and began to conduct the public presence pleading, and after the court heard for their statements and requests, and completed its scrutinies the end of the argument 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 requested, through his representative, to rule on the unconstitutionality of Article (2/3<sup>rd</sup>/Dal) of the Law on the Cancellation of Financial Privileges for State Officials No. (28) of 2019, which stipulates (continuing to work on not allocating a car for members of the Council of Representatives) for violating the provisions of Article (14) of the Constitution, and by reviewing the lawsuit file, the defenses of the two parties in conflict, their requests and the regulations exchanged between them, it was found that the contested text was a legislative option for the Council of Representatives based on for the powers provided for in Article (61/1<sup>st</sup>) of the Constitution of the Republic of Iraq for the year 2005, no constitutional text, in particular,

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violates the principle of equality stipulated in Article (14) of the Constitution, since what is meant by equality mentioned in the aforementioned article is equality in the same case and not in different cases, on the one hand, and on the other hand one of the reasons for legislating Law No. (28) of 2019, the law on the abolition of financial privileges for officials in the state, is to reduce the financial burdens on the state treasury, reduce expenditures, cancel the privileges of officials in the state, achieve social justice and reduce disparities among the Iraqi people, so the plaintiff's lawsuit must be answered, because there is no constitutional violation in view of the foregoing, the Federal Supreme Court decided as follows:

First: Ruling to reject the lawsuit of the plaintiff the representative Raed Hamdan Al-Maliki for lack of a constitutional violation.

Second: Charging the plaintiff the expenses, fees and advocacy fees of the defendant's agent, the Speaker of the Council of Representatives, being in this capacity, an amount of one hundred thousand dinars distributed in accordance with the law.

The decision has been issued unanimously, final and binding on all authorities based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq of 2005, and Articles (4 and 5/Second) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and it has been made clear on 4/Dhu al-Qa'dah/1445 A.H. corresponding to 13/5/2024 AD.

**Judge**  
**Jasem Mohammad Abbood**  
**President of the Federal Supreme Court**

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