

Republic of Iraq
Federal Supreme Court
Ref 11/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 18/2/2024 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: Wael Majeed Abdullah - His agent the barrister -
Mohammed Ali Abd Salm.

The Defendant: Head of the Iraqi Council of Representatives / being in this capacity - His agents the official jurists Saman Mohsen Ibrahim and Aseel Samir Rahman.

The Claim:

The plaintiff's agent, Wael Majeed Abdullah, pleaded before the Baghdad / Karkh Court of Appeal in its original capacity / the First Appellate authority, the unconstitutionality of the decision of dissolved Revolutionary Command Council Resolution No. (103) of 1997, during the aforementioned court's consideration of the appeal case numbered (353/Sin/2023 filed before it against the respondent, the Minister of Finance and the Minister of Oil, in addition to their jobs which demands under it abrogated the initial judgment of the lawsuit No.562/B/2022), and based on the provisions of Article (18) of the Rules of Procedure of the Federal Supreme Court No. (1) of the year 2022, the court assigned him to file a lawsuit on the subject of the objection and pay the legal fee for it, and accepted it and sent it with a photocopy of the file of the appeal lawsuit, and the initial lawsuit numbered (562/Beh/2022) to this court attached with the letter of the

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presidency of the Baghdad Court of Appeal / Karkh - Office of the President of Appeal No. (8/office/miscellaneous/24) on 7/1/2024, According to which the plaintiff claimed, through the mediation of his agent, that the decision of the dissolved Revolutionary Command Council No. (103) of 1997 issued on 18/8/1997, which includes the cancellation of in-kind compensation decisions issued by the expropriation committees, violates his rights, and violates the Constitution in Article (2/I), which affirmed that Islam is the official religion of the state, and that it is not permissible to enact a law that contradicts its constants or with the principles of democracy or rights and freedoms, as well as with Article (23/1st and 2nd) thereof, which indicated that private property is inviolable, and may not be expropriated except for the purposes of public benefit in return for fair compensation, as his client has purchased the property (the subject of the preliminary lawsuit) from his own money and withdrew by virtue of the decision , the subject of the appeal - without compensation, so the plaintiff's agent asked the Federal Supreme Court to rule that the dissolved Revolutionary Command Council Resolution No. 103 of 1997 is unconstitutional with direct effect so that the courts can achieve the right, achieve justice, and remove decisions that violate justice and violate the constitution. After registering the lawsuit with this court No. (11/Federal/2024) and informing the defendant of its petition and documents in accordance with Article (21/I and II) of the Court's Rules of Procedure, his two agents replied with the reply list dated 14/1/2024 to summarize: that the decision - the subject of the appeal - has been implemented and its provisions are no longer valid it is considered an invalid decision, and it is outside the jurisdiction of the court, in addition to the previous adjudication of the subject matter of the case by the court according to its decisions No. (15/Federal/2023) on

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9/4/2023 and (39/Federal/2013) on 28/8/2013. They requested that the case be dismissed and that the plaintiff be charged fees, expenses and advocacy fees. After completing the procedures required by the rules of procedure of the court, a date was set for the consideration of the lawsuit without pleading, in which the court was formed and began to consider the case, the court reviewed the plaintiff's request and his support and the defenses of the defendant's agents under the regulations linked to the lawsuit papers, and after the court 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 noted that the unconstitutionality of the dissolved Revolutionary Command Council Resolution No. (103) of 1997 in Case No. (353/Sin/2023) before the Karkh Federal Court of Appeal in its original capacity / first appellate body in the session of 12/3/2023, the court gave him time to file the lawsuit duly, but he lax and did not file the lawsuit until 29/3/2023, as he collected the fee for it according to the receipt number (632699) in violation of the provisions of Article (18/2nd) of the internal regulations of this court No. (1) of 2022, published in the Iraqi Gazette No. (4679) on 13/6/2022, which required that the legal fee for the lawsuit be paid and submitted to the court within ten days from the date of the defense of unconstitutionality, so this lawsuit must be answered in form from this authority therefor The Federal Supreme Court decided to rule as follows:

First: Reject of the plaintiff's lawsuit Wael Majeed Abdullah in form, for its establishment outside the legal period stipulated in Article

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(18/Second) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, published in the Iraqi Gazette No. (4679) on 13/6/2022. Second: The plaintiff shall bear the fees, expenses and attorneyship fees of the defendant's agents / in addition to his job the human rights employees Saman Mohsen Ibrahim and Aseel Samir Rahman, an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously final and binding according to 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. For the year 2021. The decision has been made clear on 7/Shaaban/1445 A.H. corresponding to 18/February/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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