

Republic of Iraq  
Federal Supreme Court  
Ref 120/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 1/7/2024 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: the representative Raed Hamdan Al-Maliki / Member of the Parliamentary Legal Committee - His agent the barrister Raad Abdul-Jabbar.

The Defendant: Speaker of the Kurdistan Regional Parliament / being in this capacity.

**The Claim:**

The plaintiff claimed through his agent that the defendant issued the advocacy law for the Kurdistan Region No. (18) of 1999, as amended, articles 19 and 20 of this law prohibit non-lawyers registered in the roll from giving legal advice or entrusting or defending others before the courts and investigative authorities or settling disputes, and allowed, as an exception, the competent minister or the head of the entity not associated with a ministry to represent them one of their employees who have a baccalaureate degree in law to plead before the courts in the region, provided that the department is a party to the lawsuit and that its value does not exceed (3,750,000) three million seven hundred and fifty thousand dinars, otherwise it is necessary to appoint a lawyer not chosen by the ministry or department, but chosen by ( Government Claims Distribution Committee) which is exclusively responsible for distributing cases to lawyers, according to the provisions of Article (19)

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of the aforementioned law, this context currently applies to cases in which one of the ministries of the federal government is a party, as well as independent authorities where the legal representative of federal government authorities is prevented from pleading and a lawyer selected by the Claims Distribution Committee is imposed on them, and this has caused the federal ministries to lose many of the lawsuits filed before the regional courts and waste of public money, with a quasi-immunity granted by article 20 of the advocacy law in the region to the lawyer by not being responsible for what he states in his petition, which requires the right of defense obliging federal ministries to appoint a lawyer chosen by the Lawyers Distribution Committee is incorrect and contrary to the Constitution, as it contradicts article (27) which affirms the sanctity of public funds and requires their preservation because the appointment of lawyers selected from the Distribution Committee and the exclusion of the legal representative caused the loss of the rights of some ministries, including the Ministry of Education which confirmed this in its letter No. (23322) on 1/8/2023 it also contradicts the proper application of the provisions of article (115) of the Constitution, which stipulates that (everything that is not stipulated in the exclusive competences of the federal authorities shall be the prerogatives of the regions and governorates not organized in a region), which means that the matter concerns the region and not related to the right of the federal government or its authorities to appoint a lawyer it is also contrary to the independence of the authorities recognized by the text of article (47) of the Constitution, so the plaintiff asked this court to rule on the unconstitutionality of articles (19) and (20) of the advocacy law of the Kurdistan Region No. (18) of 1999, and the invalidity of obliging the ministries of the federal government to appoint a lawyer chosen by the (Government Claims Distribution Committee) and charge him fees and

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advocacy fees. After registering the case with this court No. (120/Federal/2024) and informing the defendant of its petition and documents in accordance with Article (21 / first and second) of the court's rules of procedure No. (1) of 2022, and for his lack of answer, the court set a date for considering the case without pleading in accordance with Article (21/3<sup>rd</sup>) of the court's internal regulations, in which the court was formed and began to consider the case, the court scrutinized the plaintiff's requests and supports, 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's lawsuit focused on a request to rule the unconstitutionality of the two articles (19 and 20) of the advocacy law of the Kurdistan Region No. (18) of 1999, as amended, and the invalidity of obligating the ministries of the federal government by appointing a lawyer chosen by the (Government Claims Distribution Committee) for violating the provisions of articles (47 and 115) of the Constitution of the Republic of Iraq of 2005, and for the reasons specified in his petition, and then charging the defendant/ being in this capacity with the fees, expenses and advocacy fees, and the decision of this court dated 12/5/2024 to hear the case without pleading in accordance with article (21/3<sup>rd</sup>) of the internal regulations of this court No. (1) of 2022, in order for the court to review the attachments attached to the petition, and since the constitutional lawsuit is like all other lawsuits, it is required to accept it that the plaintiff's interest condition is met at the time of its establishment and until the issuance of the final judgment therein, as there is no lawsuit without interest article (6) of the Civil Procedures

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Law No. (83) of 1969, as amended, and Article (20) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022 stipulate that the plaintiff in the subject matter of the lawsuit has a case-effective, direct and influential interest in his legal, financial or social status, and that this interest is available starting from the filing of the lawsuit until the issuance of the final judgment therein, as provided that the contested text has actually been applied to the plaintiff, and that he has not benefited from the challenged text in whole or in part, and since the condition of interest according to the foregoing is not fulfilled in the plaintiff's lawsuit, therefore, his claim shall be free to respond from this party, and the Federal Supreme Court decided to rule as follows:

First: Ruling on reject the plaintiff's lawsuit (Raed Hamdan Al-Maliki), due to the lack of interest condition necessary for its establishment.

Second: Charging the plaintiff with expenses and fees.

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 (4 and 5/2<sup>nd</sup>) 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 24 Dhu al-Hijjah 1445 A.H. corresponding to 1/7/2024 AD.

**Judge**  
**Jassim Mohammed Abood**  
**President of the Federal Supreme Court**

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