



Republic of Iraq  
Federal Supreme Court  
Ref. 121unified with 123/federal/2024

Kurdish text

The Federal Supreme Court (F S C) has been convened on 4/8/2024 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 Khaled Taha Ahmed who are authorized in the name of the people to judge and they made the following decision:

The plaintiff in the lawsuit (121/Federal/2024): Governor of Wasit / being in this capacity - His agent the legal adviser Sahib Matar Khabat.

The plaintiff in the lawsuit (123/Federal/2024): Governor of Babylon / being in this capacity - His agent the human rights agent Bassem Ali Hadi.

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

**The Claim:**

The plaintiff in the lawsuit (121/Federal/2024) through the mediation of his agent, claimed that the defendant in addition to his job canceled Paragraph (1) of Clause (First) of Article (45) of the Law of Governorates Not Organized in a Region No. (21) of 2008 as amended by Article (12) of Law No. (10) of 2018 the third amendment law to the aforementioned Governorates Law it was replaced by the transfer of sub-departments, organs, functions, services and competencies exercised by the Ministries of Municipalities and Public Works, Construction and Housing, Labour and Social Affairs, Agriculture, Youth and Sports. This resulted in the exclusion and cancellation of the transfer of the sub-

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departments of the Ministries of Health and Education to the governorates, agencies, functions, services and specializations and re-linking them to the Ministries of Health and Education again, contrary to what was stated in Law No. (19) of 2013, the second amendment to the Governorates Law in the name of addressing the problems revealed by the practical application of the law, and based on constitutional articles (5, 13, 122, 110 and 114 / fifth and sixth), the sovereignty of the law, and the people are the source of powers and their legitimacy is exercised by direct universal secret ballot, and that this constitution is the supreme and supreme law in Iraq and is binding throughout it without exception and may not enact a law that contradicts it, and every text contained in the constitutions of the regions or any other legal text that contradicts it is null and void, and the provinces are granted which has not organized in the territory of the broad administrative and financial powers to enable it to manage its affairs in accordance with the principle of administrative decentralization, and this shall be regulated by law, the competencies of the federal authorities are limited exclusively, not including health and education affairs, and the formulation of public educational and educational policies is in consultation with regions and governorates that are not organized in a region, while the formulation of public health policies is in cooperation with each other, so the plaintiff / being in this capacity requested a ruling of unconstitutionality the text of Article (12) of Law No. (10) of 2018, the third amendment to the Law of Governorates not organized in a Region, and its cancellation - which repealed the text of paragraph (1) of item (first) of Article (45) of Law No. (21) of 2008- In accordance with Article (93) of the Constitution, and charging the defendant with

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fees, expenses and advocacy fees. After registering the lawsuit before this court with the number (121/Federal/2024) and collect the legal fee for it and notify 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, the defendant's agents replied in the reply statement dated 6/5/2024, its conclusion: The text in question was a legislative option for the Council of Representatives based on the powers stipulated in Article (61/1<sup>st</sup>) of the Constitution of the Republic of Iraq for the year 2005, and that the exclusion and cancellation of the transfer of certain departments from the authority of the ministry to the authority of the province does not make the challenged text unconstitutional, the reasons for enacting the law indicate that the repeal came to address the problems revealed by the practical application of the law on governorates not organized in a region, and they requested to reject of the lawsuit. After completing the procedures required by the Rules of Procedure of the Court a date for the pleading was set in accordance with Article (21/3<sup>rd</sup>) thereof, and the parties shall be notified of it, and the court was formed and the parties' agents attended the court noted that the lawsuit numbered (123/Federal/2024) filed before this court is the same subject of this lawsuit, and for the unity of the subject matter and to shorten the time and effort, the court decided to unify the two lawsuits and consider the lawsuit (121/Federal/2024) it is the original in accordance with the provisions of Article (76/2) of the Civil Procedure Law No. (83) of 1969 as amended, the plaintiff or his agent did not attend to the pleading of the lawsuit (123/Federal/2024), and the public presence pleadings were initiated after hearing the statements of

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the parties and completing their scrutiny, the end of the argument has been made clear and the court issued the following ruling:

**The Decision:**

Upon scrutiny and deliberation by this court, it was noted that the plaintiff in the lawsuit numbered (121/Federal/2024) is the Governor of Wasit / being in this capacity, as well as the plaintiff in the lawsuit numbered (123/Federal/2024) Governor of Babylon / being in this capacity the two who were united under the previous sequence have requested the ruling of unconstitutionality and the repeal of Article (12) of Law No. (10) of 2018 the third amendment law of the Law of Governorates Not Organized in a Region No. (21) of 2008, as amended, which stipulates the text of paragraph (1) of clause (first) of article (45) of the law is hereby repealed and replaced by the following: 1. Transfer of sub-departments, authorities functions, services, and competencies exercised by ministries (municipalities and public works, reconstruction and housing, labor and social affairs, agriculture, finance, youth and sports) with its appropriations allocated to it in the general budget and its employees and workers to the governorates within the scope of their functions set forth in the Constitution and the relevant laws gradually and the role of the ministries remains in planning the public policy, the Minister of Education and the Minister of Health, each according to his competence, shall delegate the necessary powers issued by instructions from the Council of Ministers)), and after the public presence of the plaintiff's agent (Governor of Wasit / being in this capacity) and the absence of the plaintiff's agent (Governor of Babylon / being in this capacity) and the presence of the defendant's agents (Speaker of the

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Council of Representatives / being in this capacity), and the court shall review the reply list submitted by the defendant's agents / being in this capacity dated 6/5/2024 in Case No. (121/Federal/2024) and Reply Dated 7/5/2024 in Case No. (123/Federal/2024) and they requested in both regulations to reject the lawsuit, this is because the contested text was a legislative option and there was no constitutional violation in that, and then the court reviewed the answering draft submitted by the plaintiff's agent (Governor of Wasit/ being in this capacity) dated 4/8/2024, in which he requested a ruling on what was stated in the lawsuit petition for the detailed reasons contained in his regulations, and after considering the requests and defenses of the parties' agents, the court noted that the appealed text had previously been challenged of its unconstitutionality in the lawsuit numbered (80/Federal/2018) filed by the plaintiff (Governor of Salah al-Din / being in this capacity) and the court issued its decision dated 11/6/2018, which included the rejecting of the lawsuit, for the absence of a violation or violation of the provisions of Article (122/2<sup>nd</sup>) of the Constitution of the Republic of Iraq for the year 2005, thus, it is not permissible to re-submit the same subject to this court even if the parties to the lawsuit change, because the constitutional lawsuit is a lawsuit in rem and the judgment on the same subject prevents this court from hearing the case again because it has already been decided, because the decisions of this court are final and binding on all authorities, including this court, for all of the foregoing, the Federal Supreme Court decided the following:

First: Rejecting the plaintiffs' lawsuit (Governor of Wasit and Governor of Babylon / being in this capacity), to precede the decision on its

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subject according to the judgment issued by this court No. (80/Federal/2018) on 11/6/2018.

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

The decision has been issued unanimously, final and binding on the basis of the provisions of Articles 93 and 94 of the Constitution of the Republic of Iraq for the year 2005 Articles (4 and 5/2<sup>nd</sup>) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) for the year 2021 and it has been made clear on 28 /Muharram /1446 Hijri corresponding to 4/8/2024 AD.

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

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