

Republic of Iraq
Federal Supreme Court
Ref 141/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 23/7/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalaf Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Jassim Jazaa Jafer who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Dler Hadi Raouf Najmaldin in a personal capacity, and Authorized Director of Breeze Company for Contracting, Trading and Public Transport Ltd. / being in this capacity.

The Defendant: Minister of Finance in the Kurdistan Regional Government / being in this capacity - His agent the barrister adviser Iyad Ismail Mohamed.

The Claim:

The plaintiff claimed that the Ministry of Finance in the Kurdistan Region issued instructions entitled (Clarification) No. (9/4/6822) on 20/8/2014 It prohibits the contractor who deposits funds in the bank from withdrawing any amount of money until the deteriorating financial conditions expire and return to their normal state, while the region was not suffering from a financial crisis, which constitutes a violation of the Trade Law, the Companies Law and the banking instructions of the Central Bank of Iraq, as these instructions deprived the citizen depositing his funds from withdrawing them in whole or in part from the bank in which he deposited his money for the purpose of investment, and prevented him from conducting clearing, whether in the same bank or in all accounts were seized under the mandatory undertaking imposed on the citizen without a legal basis, depriving traders, contractors and

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company owners from moving to improve the country's financial and economic situation, as no merchant can or a contractor who withdraws any amount from the bank for any purpose despite depositing large sums of money for the purpose of completing an investment project that is legally permitted, whereas no one may be deprived of his property except by virtue of a law, and the plaintiff has previously deposited an amount of (1,194,605,000) one billion, one hundred and ninety-four million, six hundred and five thousand Iraqi dinars, and after completing the procedures for the purpose for which the money was deposited he withdrew part of those funds and became a defendant in the region in accordance with the aforementioned instructions, and in accordance with Article (15) of the Integrity Commission No. (30) of 2011 violates the law and the Constitution, as he was sentenced by the court to a suspended one-year imprisonment, so the plaintiff asked this court to issue a state order to cancel and invalidate the clarification No. (9/4/6822) on 20/8/2014 and its previous and current effects for violating the Constitution and the law, as well as all regulations and instructions that decide to seize investors' funds he also requested the repeal of the Integrity Commission Law No. 30 of 2011, for violating the provisions of the Constitution and charging the defendant with expenses. After registering the case with this court No. (141/Federal/2024), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1st and 2nd) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022. After completing the procedures required by the aforementioned rules of procedure, a date has been set for the consideration of the case without pleading in accordance with Article (21/3rd) thereof, in which the court was formed and the lawsuit began to be heard, the court scrutinized the plaintiff's requests and grounds and

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noted the receipt of the defendant's agent's answer according to the response regulation dated 21/7/2024, which summarized his request to reject the case, due to the court's lack of jurisdiction to consider it, and after the court completed its scrutinies, the end of the minutes has been made clear and issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff filed his lawsuit against the Minister of Finance of the Kurdistan Regional Government Iraq / being in this capacity, and it focused on the request for a ruling to cancel the Integrity Commission Law No. (30) of 2011 for violating the provisions of the Constitution for the reasons contained in the lawsuit petition that was simplified above and its conclusion: that he had previously deposited an amount of one billion, one hundred and ninety-four million, six hundred and five thousand Iraqi dinars in one of the banks of the region, and the Ministry of Finance in the region issued a clarification under No. (9/4/6822) dated 20/8/2014, prohibits the contractor who deposits his money in the bank from withdrawing cash until the end of the deteriorating financial conditions, and that this clarification is contrary to the Trade and Companies Law and the banking instructions of the Central Bank of Iraq, it is also not permissible to deprive a person of his property except in accordance with the law, and since he withdrew part of his deposited funds, so he became accused under these instructions and Article (15) of the Integrity Commission Law No. (30) of 2011, as well as a request to issue a state order to cancel and invalidate the aforementioned clarification and its previous and current effects, and since the court considered this lawsuit without pleading based on Article (21/3rd) of the Rules of Procedure of this Court No. (1) of 2022 and reviewed the

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defendant's agent's answer dated 21/7/2024 in which he requested the reject of the lawsuit, due to the lack of jurisdiction of the court to consider the requests requested by the plaintiff, and his client is not a litigant with regard to the contested law, because this law was not issued by him, and after scrutinizing the lawsuit and reflecting on the requests received by the plaintiff this court finds that his request for issuing a state order to annul and annul the clarification issued by the defendant in addition to his aforementioned job, his request to repeal the Integrity Commission Law No. 30 of 2011 is outside the jurisdiction of this court as stated in Article (93) of the Constitution of the Republic of Iraq of 2005, and Article (4) of the Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, as the decisions issued by the regional authorities are not competent for this court to consider, nor is it competent to cancel the laws in force, for the foregoing, this lawsuit is worthy of reply, for lack of jurisdiction, the Federal Supreme Court has decided the following:

First: Rejecting the plaintiff's lawsuit (Dilir Hadi Raouf Najmaldin), for lack of jurisdiction.

Second: Charging the plaintiff the expenses, fees and advocacy fees of the defendant's agent in addition to his job in an amount of one hundred thousand dinars distributed in accordance with the law, and the decision has been issued unanimously, final and binding in accordance with 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 16/Muharram/1446 A.H. corresponding to 23/7/2024 AD.

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Judge
Jassim Mohammed Abood
President of the Federal Supreme Court

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