

Republic of Iraq
Federal Supreme Court
Ref 150/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 2/7/2024 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: Tarek Samer Bahgat.

The Defendants:

1. The President of the Republic / being in this capacity - His agent Chief Legal Expert Ghazi Ibrahim Al-Janabi.
2. Prime Minister / being in this capacity – His agent the Legal adviser Haider Ali Jaber.
3. Speaker of the Council of Representatives / being in this capacity - His two agents the official jurists Saman Mohsen Ibrahim and Aseel Samir Rahman.
4. Minister of Interior / being in this capacity.
5. Minister of Finance / being in this capacity - His agent official jurist Amer Abbas Qadir.
6. Director General of the General Tax Authority / being in this capacity.

The Claim:

The plaintiff claimed in the lawsuit petition that the Iraqi Council of Representatives legislated the Traffic Law No. (8) of 2019, which stipulates in Article (25) ((First: whoever commits any of the following acts shall be punished by a fine of (200,000) two hundred thousand dinars:... Second: whoever commits one of the following acts shall be punished by a fine of (100,000) one hundred thousand dinars: Third:

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whoever commits one of the following acts shall be punished by a fine of (50,000) fifty thousand dinars: whereas this article included huge financial fines that are not commensurate with the act, especially since the disciplinary penalties concern driving a car, so the plaintiff asked the court to rule obliging the defendants to amend Article (25) of the Traffic Law No. (8) of 2019 to an amount of (25,000) thousand dinars, and this thing is applicable, and the amendment period shall be within (30) days of the ruling decision of the Federal Supreme Court and ruling on the right of the state and not claiming any injured person for the amounts retroactively, and charging the defendants with fees and expenses. After registering the case with this court in the number (150/Federal/2024) and collecting the legal fee for it and notify the defendants of its petition and documents in accordance with Article (21/1st and 2nd) of the Court's Rules of Procedure No. (1) of 2022, the first defendant's agent replied in the reply dated 11/6/2024 in conclusion: there is no interest for the plaintiff to file this lawsuit, and the court does not have jurisdiction in its consideration due to the lack of relationship with the imposition of traffic fines stipulated in article (25) of the traffic law by the provisions of the Constitution, evidence that the plaintiff did not refer to the constitutional text on which he relied in filing this lawsuit and which was violated by the traffic law, his client is not suitable as a litigant in this lawsuit because the Traffic Law No. (8) of 2019 was approved by the Council of Representatives in accordance with its authority stipulated in Article (61/1st) of the Constitution, and his client is obligated to ratify it in accordance with the provision of Article (73/3rd) thereof, and thus the litigation is not directed in accordance with Article (4) of the Civil Procedure Law No. (83) of 1969, and the request to dismiss the lawsuit the second defendant's agent responded with the reply dated 2/6/2024 and requested to reject of the

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lawsuit for lack of interest condition and not to direct the litigation towards his client the third defendant's agents replied in the reply dated 28/5/2024, its conclusion: that the plaintiff did not indicate the constitutional text violated by the article - the subject of the challenge - and that it was a legislative option in accordance with the competencies of the Council of Representatives based on the provisions of Article (61) of the Constitution, and the plaintiff's request to oblige the defendants to amend Article (25) of the Traffic Law No. (8) of 2019 to an amount of (25,000) thousand dinars falls outside the jurisdiction of this court stipulated in Article (93) of the Constitution, and a request to reject a lawsuit the fifth defendant's agent replied with the reply dated 24/6/2024 and requested dismissing the lawsuit, for lack of jurisdiction, failure to indicate the constitutional violation, and failure to direct the litigation towards his client. After completing the procedures required by the Court's Rules of Procedure, a date was set for the consideration of the case without pleading in accordance with Article (21/3rd) thereof, in which the Court was formed and start hearing the lawsuit the court examined the plaintiff's requests and supports and the defenses of the first, second, third and fifth defendants' agents after completing its scrutinies, the conclusion 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 claim is summarized in demanding a judgment to oblige the defendants/ being in this capacity in order to amend Article (25) of the Traffic Law No. (8) of 2019 and make the amount of the fine (25,000) twenty-five thousand dinars instead of the amounts of fines mentioned in the paragraphs of the aforementioned article, provided that

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the amendment period is within (30) thirty days from the date of issuance of the decision, it also requested a ruling on the eligibility of the state and not to claim any injured person for the amounts retroactively the Court finds by reviewing the case file and the requests and defenses of the parties in dispute that the jurisdiction of the Federal Supreme Court is determined under Article (93) of the Constitution of the Republic of Iraq of 2005, and none of those competences are the requests contained in the plaintiff's petition, and therefore the lawsuit is subject to reject because it falls outside the jurisdiction of this court, and for the foregoing, the Federal Supreme Court decided the following:

First: Ruling on rejecting the plaintiff's lawsuit Tariq Samer Bahgat, for lack of jurisdiction.

Second: Charging the plaintiff with fees, expenses and attorneyship fees of the defendants' agents, the President of the Republic and the Prime Minister and The Speaker of the Council of Representatives and the Minister of Finance / being in their capacity an amount of one hundred thousand dinars to be distributed among them 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 5/2nd) 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 25 Dhu al-Hijjah 1445 AH corresponding to 2/7/2024 AD.

Judge
Jassim Mohammed Abood
President of the Federal Supreme Court

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