

Republic of Iraq  
Federal Supreme Court  
Ref 154/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 24/7/2024 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 Plaintiffs: Hayder Dakhel Hadi and Ali Amir Khalil and Khaled Abbas Hatef And Hayder Hassan Khalfah and Ola Bahaa Mohamed and Zainab Naour Naghmarsh and Abbas Lafta Deli and Iman Musa Mohsen, and Thuraya Khalaf Abd Alabbas and Talib AbduAlmonem Nagm - Their agent the barrister Hayder Saeed Musa.

The 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 plaintiffs, through their agent, claimed that the defendant legislated the National Authority for Nuclear, Radiation, Chemical and Biological Regulation Law No. (1) of 2024 published in the Official Gazette No. (4768) on 8/4/2024, which included in some of its articles in violation of the provisions of the Constitution of the Republic of Iraq for the year 2005, in Article (14) of the Constitution, which affirms that Iraqis are equal before the law, as Article (18) thereof, stipulates that (the employees of the Commission shall be granted allowances for exposure to ionizing radiation according to the following percentages...) in paragraph (1<sup>st</sup>), (100%) of the salary specified additional allowances to be granted to workers in the fields of nuclear reactors, hot cells,

**Zainab**



radioactive waste removal and management plants, and the liquidation of nuclear installations, and paragraph (2<sup>nd</sup>) specified (80%) of the salary for workers in the fields of laser and plasma experiments, neutron activation, neutron generators, gamma ray generators, X-ray generators, accelerators of all kinds, and the production of radioisotopes where this article singles out employees of the authority only for those allocations and not workers in other government institutions who are exposed to radiation and the same risks caused by those radiations, including the plaintiffs, who are employees of the Ministry of Health and work in the field of radiation on various devices, especially since they were equal with others in accordance with the previous law, the Law on Protection from Ionizing Radiation No. (99) of 1980, which was canceled, and Article (20/1<sup>st</sup>) of the law - the subject of the challenge - stipulated ((First: to be added to the retirement salary of radiation workers from the employees of the Commission and employees of the Iraqi Atomic Energy Commission referred to retirement before and after the entry into force of this law shall be fifty percent (50%) of the retirement salary, provided that he has spent a period of not less than (10) years of service in the field of radiation this also represents a violation of the principle of equality between them and the rest of the radiation workers in other institutions, as the use of such radiation is in many fields, including the medical field, border crossings, airports... as well as devices used in (gamma) rays that are used in cancer treatment centers or treatments using (radioactive iodine) and other work in which employees are exposed to the same radiation as employees in the authority, in addition to violating the aforementioned article for the reasons for enacting the law, which stipulated the need to avoid the inherent risks of ionizing radiation on workers, and that the plaintiffs are workers in the field of radiation according to the definition of Article (1/3<sup>rd</sup>) of the same law, in

**Zainab**

Republic of Iraq  
Federal Supreme Court  
Ref 154/ federal/2024



Kurdish text

addition to that Article (19) of the law - the subject of the challenge - stipulates that ((the employees of the Authority and workers in the field of radiation in other state departments shall enjoy a special annual leave for a period of (21) twenty-one days, which is not counted from the regular or sick leaves, and is entitled to full salary and allowances)) this article violates the right to health care stipulated in Article (31) of the Constitution, as well as contrary to the reasons for enacting the law, so the plaintiffs requested this court Ruling on the unconstitutionality of Articles (18/1<sup>st</sup>, 2<sup>nd</sup>, 19 and 20/1<sup>st</sup>) of the National Authority for Nuclear, Radiological, Chemical and Biological Regulation Law No. (1) of 2024, and charging the defendant with expenses and attorneyship fees, and after registering the case with this court No. (154/Federal/2024), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with the provisions of 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, his agents replied with the reply list dated on 13/5/2024  
Conclusion: The Law of the National Authority for Nuclear, Radiation, Chemical and Biological Regulation No. (1) for the year 2024, the Council of Representatives received a draft law from the government and legislated by the Council of Representatives in accordance with its competencies stipulated in Article (61/1<sup>st</sup>) of the Constitution of the Republic of Iraq for the year 2005, with regard to Article (18) of the aforementioned law the text of the draft government law granting the employees of the National Authority for Nuclear, Radiation, Chemical and Biological Regulation Radiation exposure allowance at the rates of (100%, 80% and 50%) of the nominal salary without mentioning state employees working in the field of radiation, and the Parliamentary Health and Environment Committee proposed granting radiation workers in other ministries and departments not associated with a

**Zainab**

Republic of Iraq  
Federal Supreme Court  
Ref 154/ federal/2024



Kurdish text

ministry allocations for radiation exposure allowance at a rate of (30%) of the nominal salary according to the provisions of the Law on Protection of Ionizing Radiation No. (99) of 1980 repealed, but this proposal was opposed by the Parliamentary Finance Committee because it was not contained in the draft government law and has financial implications, the defendant's agents also indicated that the substance of the matter requires legislative intervention if its reasons and conditions are met. Note that the Parliamentary Health and Environment Committee submitted a new proposal to amend Article (18) of the law and include the rights of workers in the field of radiation in other state departments and obtained the approval of the acting speaker of the Council of Representatives and the deputy speaker of the Council of Representatives to present the proposal on the agenda of the Council at the nearest session, and with regard to Article (19) of the law, it granted the worker in the field of radiation a compulsory leave of (21) days with (36) days of regular leave in addition to sick leaves, which is a sufficient period if taking into account the procedures of Protection of employees and periodic check-ups twice a year, Note that the proposal of (21) days was adopted after discussion of experts and specialists in the Atomic Energy Commission, the Center for Radiation Protection and the National Authority for Non-Proliferation, as for the discrimination contained in Article (20) granting radiation workers from the employees of the National Authority for Nuclear, Radiological, Chemical, and Biological Regulation and state departments referred to retirement before or after the entry into force of this law 50% of the retirement salary, and granting radiation workers In other state departments (30%), this discrimination is because the responsibility of the authority at the local and international levels is different and multiplied, therefore, they requested to reject the plaintiff's lawsuit and charging him judicial fees,

**Zainab**

Republic of Iraq  
Federal Supreme Court  
Ref 154/ federal/2024



Kurdish text

expenses and attorneyship fees. After completing the procedures required by the Court's Rules of Procedure, a date has been set for the pleading in accordance with Article (21/3<sup>rd</sup>) thereof , the parties were informed and the court was formed, so the plaintiffs (eighth, ninth and tenth) attended, the agents of the parties attended, and the public presence pleadings began, and after the court heard for their statements and requests, and 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 found that the plaintiffs' lawsuit focused on a request to rule unconstitutional. Articles (18/1<sup>st</sup>, 2<sup>nd</sup>, 19 and 20/1<sup>st</sup>) of the National Authority for Nuclear, Radiation, Chemical and Biological Regulation Law No. (1) of 2024 for violating the provisions of Articles (14 and 31) of the Constitution of the Republic of Iraq for the year 2005, and for the reasons they stated in their petition, and then charging the defendant in addition to his job fees, expenses and advocacy fees, upon closer examination by this court, of the articles contested as unconstitutional, it was found that they did not violate the provisions of the Constitution the failure to include some employees in government institutions other than the National Authority for Nuclear, Radiation, Chemical and Biological Regulation does not undermine the constitutionality of the contested articles, and the inclusion of the plaintiffs in its provisions requires legislative intervention from the legislative authority represented by the Council of Representatives, and based on the foregoing, the plaintiffs' claim must be rejected, in the absence of a constitutional violation, therefore, the Federal Supreme Court decided as follows:

*Zainab*

Republic of Iraq  
Federal Supreme Court  
Ref 154/ federal/2024



Kurdish text

First: Rejecting the plaintiffs' lawsuit (Hayder Dakhel Hadi, Ali Amir Khalil, Khaled Abbas Hatef, Hayder Hassan Khalfa, Ola Bahaa Mohamed, Zainab Naour Nagmash, Abbas Lafta Deli, Iman Musa Mohsen, Thuraya Khalaf Abdel Abbas, Talib AbduAlmonem Nagm demanded that there was no constitutional violation.

Second: Charging the plaintiffs with the expenses, fees and advocacy fees of the defendant's agents in addition to his job, 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 all authorities based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (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 on 17 / Muharram / 1446 Hijri corresponding to 24/7/2024 AD.

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

**Zainab**