

Republic of Iraq  
Federal Supreme Court  
Ref. 159 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 3/9/2023 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul Rahman Suleiman, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Luqman Hakim Darweesh.

The Defendant: President of Kurdistan Region Parliament/ being in this capacity.

### **The Claim**

The plaintiff claimed in the petition that the Parliament of the Kurdistan Region of Iraq issued Law No. 42 of 2004 ((suspending the entry into force of paragraph (1) of Article (408) of the Iraqi Penal Code No. (111) of 1969, as amended), which stipulated that: (whoever incites a person or assists him by any means to commit suicide or causes it if suicide is committed accordingly, shall be punished by imprisonment for a period not exceeding seven years, and the penalty shall be imprisonment in the event of attempt) and that this article violates the provisions of the Constitution of the Republic of Iraq for the year 2005, Article (13) of which may not enact a law that contradicts the provisions of the Constitution, and since his son was affected by this article, as it was based on it to sentence him to severe imprisonment for a period of four years, according to the decision of the Kurdistan Region Court of Cassation No. (20/Criminal General Authority/2023) on 2/4/2023 this may cause him to be fired from his job (lieutenant colonel in the Iraqi Army aviation), therefore, the plaintiff asked this court to rule the

*saady*

Republic of Iraq  
Federal Supreme Court  
Ref. 159 / federal /2023



Kurdish text

unconstitutionality of the amendment contained in Article (408) of the Iraqi Penal Code under Article I of Law No. (42) of 2004 issued by the defendant / being in this capacity and to burden him with fees and advocacy fees. The lawsuit was registered with this court at the number (159/federal/2023) and the legal fee was collected for it and notified to the defendant / being in this capacity based on Article (21/ 1<sup>st</sup> and second) of the internal regulations of the Federal Supreme Court No. (1) of 2022, and for the lapse of the period stipulated in item (third) of the same article, the court set a date for considering the case without pleading, and on the specified day the court was formed and began to consider the case, the court checked 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 facts of this case are summarized in that the defendant is Shakhwan Luqman Hakim Darwish, the son of the plaintiff, was sentenced to severe imprisonment for a period of four years based on the provisions of Article (408) of the Iraqi Penal Code No. (111) of 1969, as amended by Law No. (42) of 2004 issued by the Kurdistan Region Parliament of Iraq, this is because he caused the suicide of his victimized wife after discovering his affair with her sister, so the plaintiff requested a ruling on the unconstitutionality of the current amendment to Article (408) penalties by the regional parliament by adding the phrase (or caused it) under Article 1 of Law No. (42) of 2004, and the court finds that Article (20) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022 requires that the plaintiff have a case-effective, direct, and influential interest in his legal,

*saady*

Republic of Iraq  
Federal Supreme Court  
Ref. 159 / federal /2023



Kurdish text

financial, or social status that is available starting From filing the lawsuit until the issuance of the judgment, this is because the appealed text was not applied to him in addition to the lack of a direct interest in filing the lawsuit, and the plaintiff's son (the convict Shakwan Luqman Hakim) can file the lawsuit personally to challenge the constitutionality of the text subject of the lawsuit, and thus the plaintiff's lawsuit must be dismissed and for the foregoing, the Federal Supreme Court decided to dismiss the plaintiff's lawsuit Luqman Hakim Darwish for lack of Availability of the Authority and charging judicial fees and expenses. The decision has been issued unanimously, final, and binding for all authorities according to the provisions of articles (93, and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited in the session dated 17/Sufur/1445 Hijri coinciding with 3/September/2023 AD.

**Judge**

**Jassim Mohammed Abbood**

**President of the Federal Supreme Court**

*saady*