

Republic of Iraq
Federal Supreme Court
Ref. 167 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 4/9/2023 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, Ayooob 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: the barrister Rasool Salih Miran Sahreef.

The Defendant: Speaker of the ICR/ being in this capacity- his agent is the official jurist Saman Muhsin Ibraheem.

The Claim

The plaintiff claimed that the defendant / being in this capacity legislated Traffic Law No. 8 of 2019, as Article (28/1st/Alif, and Beh) thereof stipulates (a- The traffic officer, based on his observation or monitoring of monitoring devices, has the authority of a misdemeanor judge to impose the fines stipulated in Articles (25, 22, and 27) of this law for traffic violations that occur in front of him or appear on monitoring screens, and the penalty is issued according to the judgment model accompanying this law. Beh- The competent traffic commissioner up to the fourth degree, based on his observation or monitoring of monitoring devices, has the authority of a misdemeanor judge to impose the fines stipulated in articles 25/3rd and 26 of this law for traffic violations that occur in front of him or appear on monitoring screens, and the punishment is issued in accordance with the judgment model accompanying this law) Whereas the Code of Criminal Procedure No. 23 of 1971 dealt with the subject of violations, and the legislator's tendency to give the traffic officer or the traffic commissioner The competent up to the fourth degree is the authority of a misdemeanor judge to impose the fines stipulated in articles 25/3rd, and 26 of the law and prepare a model for the judgment attached to it that represents interference in

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the work of the judiciary, prejudice to its independence, and a violation of the principle of separation of powers, which violates the constitution in articles (19/1st, 3rd, 87, 88, 89, and 47) thereof, especially since judgments are issued in the name of the people in accordance with Article (128) of the Constitution, and the proposal of draft laws related to the judiciary is one of the tasks of the Supreme Judicial Council, so the plaintiff requested a ruling on the unconstitutionality of Article (28 /1st - Alif, Beh) of the Traffic Law No. (8) of 2019 and to charge the defendant with expenses and fees. The lawsuit was registered with this court No. (167/Federal/2023), and the legal fee for it was collected and notified to the defendant / being in this capacity in accordance with Article (21/1st and 2nd) of the Bylaw of the Federal Supreme Court No. (1) of 2022, his agent replied with the answering draft dated 24/7/2023, requesting the dismissal of the lawsuit because the text - the subject of the challenge - was a legislative option in accordance with the competencies of the Council of Representatives under Article (61) of the Constitution, and that the imposition of traffic fines, even if they involve as a penalty for committing a violation, rather, it came to regulate the provisions of the traffic of vehicles, maintain the safety of citizens and traffic in streets and cities, and urge citizens to abide by safety and traffic rules that were previously adjudicated by Resolution (60/Federal/2023). After completing the procedures required by the Court's Rules of Procedure and based on Article (21/3rd) thereof, the court set a date for the pleading and notified the parties, and on the specified day, the court was formed, and the plaintiff and the defendant's agent attended and began to conduct the public presence pleading, and the court heard their statements, and after the court completed its scrutinies, the end of the minutes has been made clear, it issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff, Lawyer Rasul Saleh Miran, filed this lawsuit against the

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defendant, the Speaker of the Council of Representatives, in addition to his job, challenging the unconstitutionality of Article (28/1st-Alif, and Beh) of the Traffic Law No. (8) of 2019, for violating the provisions of Articles (19/1st, 3rd), (47), (87), (88), (89), and (128) of the Constitution of the Republic of Iraq of 2005. The court finds that it had previously decided on the subject matter of this lawsuit under lawsuit numbered (60/Federal/2023) filed by the plaintiff (Mohamed Maher Hassan) against the two defendants (Speaker of the Council of Representatives and Minister of Interior / being in this capacity), according to which he challenged the unconstitutionality of Article (28) of the Traffic Law No. (8) of 2019, which is the same subject of this lawsuit, which was settled on 11/6/2023 by dismissing the lawsuit regarding the first defendant, the Speaker of the Council of Representatives, this is because there is no constitutional violation, whereas the decisions of this Court are final and binding on all authorities and individuals with what it has decided on. Accordingly, the plaintiff, lawyer Rasul Saleh Miran's lawsuit, shall be dismissed because its merits have already been decided following the aforementioned decision. Therefore, the Federal Supreme Court decided to dismiss the lawsuit of the plaintiff, lawyer Rasul Saleh Miran, because it had already been adjudicated and charged the fees, expenses, and advocacy fees of the defendant's agent, being in this capacity, the human rights employee Saman Mohsen Ibrahim, an amount of one hundred thousand dinars distributed following the law. 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 on the session dated 18/Sufur/1445 Hijri coinciding 4/September/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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