

Republic of Iraq
Federal Supreme Court
Ref 177/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 18/8/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalaf Ahmed Rajab, Ayoub Abbas Salih, Dyar Mohammed Ali, Khaled Taha Ahmed, and Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: the representative Saud Saadoun Al-Saadi - His agent the barrister Mahdi Abdul Redha Jassim.

The Defendants: 1. Speaker of the Council of Representatives / being in this capacity - his agent the official jurist Saman Mohsen Ibrahim.

2. Prime Minister / being in this capacity - His agent the legal adviser Qasim Suhaib Shakour.

The Claim:

The plaintiff claimed through his agent that the first defendant issued Parliamentary Resolution No. (64) of 2024, which stipulated the approval of the estimates of the tables of the Federal Budget Law for the year 2024 and its attaches, and based on Article (93/3rd) of the Constitution, the plaintiff took the initiative to challenge him before this court, for violating the principle of the supremacy of the Constitution stipulated in Article (13) of the Constitution, where the defendant violated the legislative procedures specified in the Constitution regarding the amendment of the laws in force, as Article (61) thereof specified the competence of the Council of Representatives to legislate or amend federal laws and not issuing a parliamentary decision according to which most of the chapters were amended and transfers were made at the expense of the deprived governorates Articles (112 and 122/2nd) of the Constitution require a fair share of local revenues to

Zainab

Republic of Iraq
Federal Supreme Court
Ref 177/ federal/2024



Kurdish text

be allocated, this amendment led to its unfairness, due to political agreements and the lack of emphasis on the Kurdistan Regional Government to deliver oil revenues with the recurrence of the 2023 budget problem, and the repetition of the financial deficit of (64) trillion, in addition to violating the rules of temporal jurisdiction for holding the session to issue the parliamentary decision contained in the text of Article (57) of the Constitution, the session was held on 3/6/2024, which is an extraordinary session whose duration expired before the mentioned date, and it was not ordinary, which makes it invalid with regard to the time frame for the issuance of the decision after the expiry of the period of one month specified in Article (58) of the Constitution, in light of the failure to submit a request to extend this legislative term, as well as the violation of Article (62) of the Constitution, which requires the submission of the draft general budget law or its amendment and not the issuance of a parliamentary decision issued contrary to the procedures specified in Article (37) of the rules of procedure of the Council of Representatives for the year 2022, by replacing the first and second readings with voting on the parliamentary decision, thus violating Article (51) of the Constitution, which stipulates that (the Council of Representatives shall set an internal system for it to regulate its workflow), in addition to the absence of a law federal financial department No. (6) of 2019 of any text referring to the issuance of a parliamentary decision instead of a law to amend the budget, whereas, the 2024 budget tables sent by the government included a substantial amendment in the financial allocations in violation of the Federal Budget Law No. (13) of 2023, and includes additional financial allocations related to the salaries of the Kurdistan Region and an increase from the amount of the previous budget by (11) trillion dinars, and from all of that, it is clear that the violation of Article (77/2nd) of the

Zainab

Republic of Iraq
Federal Supreme Court
Ref 177/ federal/2024



Kurdish text

Budget Law is evident in the need for the Council of Representatives to approve the tables, which means that the phrase (approval) goes to vote on them by law, especially since the court ruled according to its decision to (140 and unified 141/federal/2018) on the unconstitutionality of Article (17/7th) of the Council of Representatives Law and its formations No. (13) of 2018, therefore, the plaintiff asked this court to rule on the unconstitutionality of the parliamentary decision - the subject of the challenge - and charging the defendants fees and expenses, and after registering the case with this court No. (177/Federal/2024) collect the legal fee thereon and notify the defendants of its petition and documents in accordance with Article (21/1st and 2nd) thereof, after completing the procedures required by the court's internal regulations, 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 the case began to be considered, the court scrutinized the plaintiff's requests and supports and the defendants' agents' defenses, and where the court completed 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 plaintiff the representative (Saud Saadoun Al-Saadi) filed the lawsuit against the two defendants (Speaker of the Council of Representatives / being in this capacity, and the Prime Minister / being in this capacity) requesting a ruling on the unconstitutionality of the parliamentary decision No. (64) of 2024 for the reasons mentioned by the plaintiff in detail in the lawsuit petition and mentioned above in the introduction to the decision, and for the decision of this court to consider the case without pleading based on Article (21/3rd) of the Court's Rules

Zainab

Republic of Iraq
Federal Supreme Court
Ref 177/ federal/2024



Kurdish text

of Procedure No. (1) of 2022, and to inform the court Parliamentary Resolution No. (64) of 2024 approving the estimates of the schedules of the Federal Budget Law for the year 2024 and its annexes tables (Alif, Beh, Jim, Dal, Heh, and Waw) and the deficit financing table as received from the Council of Ministers, and the Council of Ministers may transfer allocations of (2) two trillion Iraqi dinars for governorates that are not organized in a region and distributed according to population ratios and poverty, in addition to his job dated 3/7/2024, in which he requested to reject of the lawsuit, due to the lack of interest in filing it, and that the parliamentary decision subject of the lawsuit was issued based on Article (59/2nd) of the Constitution of the Republic of Iraq for the year 2005, Article (77) of the Federal Budget Law of the Republic of Iraq No. (13) of 2023 and Article (4/2nd) of the Federal Financial Management Law No. (6) of 2019, the violation of the decision - the subject of the lawsuit - of the laws is outside the jurisdiction of this court, and the court reviewed the list of the second defendant's agent, the Prime Minister, in addition to his job dated 10/7/2024 in which he requested to reject of the lawsuit, due to the lack of jurisdiction of this court to consider it, and that the plaintiff is not one of those entitled to challenge the budget law based on Article (22) of the rules of procedure of this court, and the plaintiff has no interest in establishing it, and that the decision - the subject of the appeal - was not issued by his client, and that it came in implementation of Article (77) of Law No. (13) of 2023 (Federal Budget Law), after the foregoing, the Court finds that its competencies specified in Articles (52/2nd and 93) of the Constitution, The Republic of Iraq for the year 2005, does not include a decision on the constitutionality of decisions issued by federal authorities, rather, it is limited to deciding on the constitutionality of laws and regulations in force under Article (93/1st) of the Constitution,

Zainab

Republic of Iraq
Federal Supreme Court
Ref 177/ federal/2024



Kurdish text

in addition to its other competencies contained in the rest of the paragraphs of the said article, and since the plaintiff requested a ruling that the decision subject of the lawsuit is unconstitutional, so this lawsuit and as submitted therein is outside the competences of this court, therefore, the Federal Supreme Court decided as follows:

First: Rejecting the plaintiff's lawsuit (Saud Saadoun Al-Saadi), for lack of jurisdiction according to the form in which the lawsuit was filed.

Second: Charging the plaintiff the expenses, fees and advocacy fees of the defendants' agents / being in their capacity an amount of one hundred and fifty thousand dinars distributed in accordance with the law.

The decision has been issued unanimously, final and binding 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 5/2nd) 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 13/Safar/1446 Hijri corresponding to 18/8/2024 AD.

Judge
Jassim Mohammed Abood
President of the Federal Supreme Court

Zainab