

Republic of Iraq
Federal Supreme Court
Ref. 179 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 11/9/2023 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: the Representative Mustafa Khaleel Nusaif Jassim/ member of the parliamentary financial committee.

The Defendant: Speaker of the ICR/ being in this capacity – his agents, the official jurist Saman Muhsin Ibrahim.

The Claim

The plaintiff claimed that the defendant legislated the Federal Budget Law of the Republic of Iraq for the years (2023- 2024- 2025) No. (13) of 2023 Paragraphs have been added and specified for the investment allocations to the governorates within the amended table (e), and these new observations were not raised in the Finance Committee or during the budget voting session held in session No. (31) on (11/6/2023), an amount of (561,943,095,000) five hundred and sixty-one billion nine hundred and forty-three million and ninety-five thousand dinars was allocated to the investment budget of the province of Babylon and after voting on the budget law, during the reformulation of the budget items according to what was voted on within the session, it was noted that a text was added within the paragraphs (including 100 billion to northern Babylon and 75 billion to establish a Kothi water project, which is also in northern Babylon) and this text is not voted on within the Council, and it is an added text that causes injustice in the allocations between the rest of the districts and districts of the governorate and contradicts the text of Article (2 /1st/ 4 /Alif) of the same law. As well as a violation of Articles (14, 121 / 3rd and 61 / 1st) of the Constitution of the Republic of Iraq for the year 2005 as it establishes a state of inequality and discrimination in the distribution of federal

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resources among the residents of the same governorate and its districts and suburbs, and this may cause social instability within the rest of the districts and affected districts, as well as when adding phrases to the law after voting on it will disrupt the progress of the legislative process and include falsification of the will of the people's representatives in parliament. Based on the provisions of Articles (93 and 27) of the Constitution and the principles decided by the Court, the Court was requested to rule on the unconstitutionality of the changes that occurred in the amended Schedule (Heh) within the investment allocations of the governorates, the cancellation of the added phrases and texts, and the defendant's charges, fees and advocacy fees. The lawsuit was registered with this court at number (179/federal/2023), and the defendant is informed of its petition and documents in accordance with Article (21 / 1st and 2nd) of the internal regulations of the Federal Supreme Court, so the defendant's agent answered the response regulation dated 8/8/2023 and requested the dismissal of the lawsuit due to the lack of interest of the plaintiff from its establishment, and that the text - the subject of the challenge - was issued in accordance with the jurisdiction of the Council of Representatives under Article (61 / first) of the Constitution, in addition to the fact that the draft law sent by the government with its schedules has been read, discussed and voted on within the Council of MPs, according to what was proven in official records, can only be challenged by forgery, and a correction statement was issued by the Presidency of the Republic published in the Iraqi Gazette No. (4729) on 17/7/2023. The total capital amounts of the province of Babylon were amended to become (626,943,095) instead of (561,943,095) to which the plaintiff refers in his petition, and the plaintiff does not have the right to represent himself on behalf of the professional body by appealing, so there is no litigation for him. After completing the procedures required by the Court's Rules of Procedure No. (1) of 2022, 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 checked what was stated in the plaintiff's requests, his supports, and the defenses of the defendant's agent, and after completing its audits, the end of the minutes has been made clear, and the Court issued the following decision:

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The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that the plaintiff filed the lawsuit against the defendant, the Speaker of the House of Representatives/ being in this capacity, requesting a ruling on the unconstitutionality of the changes that occurred to the amended table (Heh) within the investment allocations for the governorates and the cancellation of the phrases and texts added within Law No. (13) of 2023 The Federal Budget of the Republic of Iraq for the fiscal years (2023-2024-2025) as it establishes a state of inequality and discrimination in the distribution of federal resources among the residents of the same governorate and its districts and suburbs, the Federal Supreme Court finds that the plaintiff's claim must be dismissed in form based on the provisions of Article (22) of the Court's Rules of Procedure No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, which stipulates that the challenge to the constitutionality of the Federal Budget Law or any text therein shall be submitted by the authorities and bodies stipulated in Article (19) of this system, within a period not exceeding (30) thirty days from the date of its publication in the Official Gazette, and the procedures shall be applied to it. stipulated in Article (21) of this system, and the court shall decide on the appeal within a period not exceeding thirty days from the date of its registration, unless otherwise necessary)), and following Article (19) thereof, which stipulates that ((any of the three federal authorities, ministries, independent bodies, the Prime Minister of the region, entities not associated with the ministry, and governors may request the (Federal Supreme Court) to rule on the constitutionality of a legal text or regulation, ...)), the plaintiff is not one of the persons mentioned in Article (19) who have the right to challenge the constitutionality of the Federal Budget Law or any text therein, and does not represent any of them, which requires the dismissal of the plaintiff's lawsuit in form, and for the foregoing, the Federal Supreme Court decided to rule: Dismiss the plaintiff's lawsuit, the Representative Mustafa Khalil Nusaif, and to burden him with the fees, expenses and advocacy fees of the defendant's agent/ being in this capacity, an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, final, and binding for all powers according to the provisions of articles (93 and 94) of the

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Constitution of the Republic of Iraq for 2005 and articles (4 and 5/2nd) 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 25/Sufur/1445 Hijri coinciding with 11/September/2023 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court