

Republic of Iraq  
Federal Supreme Court  
Ref 180/ 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, Ayoob 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: Hadi Hassan Marihaj – His agents the barristers Iyad Jaafar Ali Akbar and Ali Kamel Rasul.

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

**The Claim:**

The plaintiff claimed, through his agent, that the defendant issued Parliamentary Resolution No. (64) of 2024 in the Council of Representatives session dated 3/6/2024, which included ((Approval of the estimates of the tables of the Federal General 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, ...)) which violated the Constitution in Article (61) thereof, which defined the competencies of the Council of Representatives to legislate and amend federal laws and not to issue parliamentary decisions that include the approval of the schedules of the General Budget Law. and Article 62 thereof, which stipulates (First: The Council of Ministers submits the draft law on the general budget and the final account to the Council of Representatives for approval), which requires the submission or amendment of the draft budget law, which is what the Council of Ministers did, contrary to what the defendant did by replacing the constitutional instrument for the Council of Representatives to express

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its legislative will with the parliamentary decision to approve the schedules of the budget law instead of issuing a law annex in accordance with the legislative mechanism approved under the internal regulations of the Council of Representatives for the year 2022 in Article (137) thereof, Which specified the procedures and stages of voting on the draft law to be read a first reading, then the committee read the report on the draft law, then conduct discussion and vote on it, and the decision also violated Article (4) of the Federal Financial Management Law No. (6) of 2019, which states ((Second: The annual budget starts from (1/1) and ends on (31/12) from the same year, the Federal Ministry of Finance may prepare a medium-term budget for a period of (3) years, which shall be submitted once and legislated the first year shall be mandatory and the Council of Ministers, upon the proposal of the Ministries of Planning and Finance, may amend it for the second and third years and with the approval of the Council of Representatives the authority and powers to issue legislative decisions according to its decision No. (140 and its unified 141/federal/2018) on 23/12/2018, whereas the voting session dated 3/6/2024 lasted half an hour, meaning that no discussion took place, and this is evidence of the existence of a political agreement to pass them, and the tables and reports were not distributed to the deputies before an appropriate period for review and confirmation of observations, in addition to the defendant passing them in a semi-secret session and not taking into account Article (106) of the Constitution, which required the establishment of a public authority to monitor the allocation of federal imports, as the schedules were not presented to the authority, and since the interest in filing this lawsuit is an interest General as it relates to public funds and the distribution of wealth this has been recognized by the Court in many of its decisions, therefore, the plaintiff asked this court to rule that the parliamentary decision is invalid

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No. (64) on 3/6/2024 and returning the budget tables to the Council of Representatives in order to legislate them in accordance with the constitutional and legal contexts and give the representatives of the people the opportunity to discuss and approve them, and charging the defendant fees and expenses. After registering the lawsuit at this court with the number (180/Federal/2024), collecting the legal fee for it, and informing the defendant of its petition and documents based on Article (21 / first and second) of the court's internal regulations No. (1) of 2022, his agent answered the reply dated 3/7/2024 and the request to reject the case, the parliamentary decision - the subject of the challenge - was issued based on the approval of the Council of Representatives on the estimates of the tables of the Federal Budget Law for the year 2024 and its annexes as received from the Council of Ministers Based on the provisions of Article (59/2<sup>nd</sup>) of the Constitution, Article (77) of the Federal Budget Law, and Article (4/2<sup>nd</sup>) of the Federal Financial Management Law No. (6) of 2019, and with regard to the violation of the decision - the subject of the challenge - to other laws, this is outside the jurisdiction of the court in accordance with the provisions of Article (93) of the Constitution, and after completing the procedures required by the court's internal regulations, a date was set for considering the case without pleading based on Article (21/3<sup>rd</sup>) thereof, in which the court was formed and scrutinized the plaintiff's requests, his supports and the defenses of the defendant's agent, and after completing the 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 noted that the summary of the plaintiff's lawsuit (the representative Hadi

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Hassan Merihej) filed against the defendant (Speaker of the Council of Representatives / being in this capacity), that he requested a ruling on the invalidity of the parliamentary decision No. (64) on 3/6/2024 and the return of the budget tables to the Council of Representatives in order to legislate them in accordance with the constitutional and legal contexts and give the representatives of the people the opportunity to discuss and approve them, for the reasons mentioned in the detailed lawsuit petition. In the introduction to the decision, and for the decision of this court to consider the case without pleading in accordance with the provisions of article 21/3<sup>rd</sup> of the court's rules of procedure No. 1 of 2022, and to inform the court of the parliamentary decision No. (64) on 3/6/2024, which included: ((Approval of the estimates of the tables 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 an amount of (two trillion Iraqi dinars) to governorates that are not organized in a region and distributed according to population and poverty ratios)), and to inform the court of the reply list dated 3/7/2024 submitted by the defendant's agent / being in this capacity, in which he requested to reject of the lawsuit for the reasons stated therein, which concluded: The decision - the subject of the appeal - was issued in accordance with Article (59/2<sup>nd</sup>) of the Constitution and Article (77) of the Federal Budget Law No. (13) of 2023 and Article (4/2<sup>nd</sup>) of the Federal Financial Management Law No. (6) of 2019, and the violation of the decision (subject of the appeal) of other laws is outside the jurisdiction of this court when the foregoing, this court finds that one of the conditions of Filing a constitutional lawsuit, like all other civil lawsuits, and based on article 6 of the Civil Procedure Law No. 83 of 1969, as amended, is that the plaintiff has a known, case, possible,

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and verified interest, this is confirmed by Article (20/1<sup>st</sup>) of the rules of procedure of this Court No. (1) of 2022, and that what the plaintiff stated that the interest in filing this lawsuit is a public interest represented in the fact that the decision violated a number of constitutional and legal articles and the rules of procedure of the Council of Representatives, and according to the detail mentioned by the plaintiff, this abstract public interest does not rise as a sufficient reason to accept the lawsuit unless the plaintiff has an interest, which is the benefit he hopes to obtain when ruling on his requests, the decision subject to the challenge does not contain anything that is considered damage or waste of public money so that the plaintiff or any citizen has an interest in filing the lawsuit in accordance with Article (27/1<sup>st</sup>) of the Constitution, for the foregoing and the lack of the lawsuit for the interest condition described above, so this lawsuit deserves a response, so the Federal Supreme Court decided the following:

First: Rejecting the plaintiff's lawsuit (Hadi Hassan Merihej), due to the lack of the necessary interest condition for its establishment.

Second: Charging the plaintiff with the expenses, fees and advocacy fees of the defendant's agent/ being in this capacity as 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 in accordance with the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq, of 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 edited in the session dated 13/Safar/1446 Hijri corresponding to 18/8/2024 AD.

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

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