

Republic of Iraq
Federal Supreme Court
Ref 189/ 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: Governor of Maysan / being in this capacity - His agent, the official jurist Abdul Zahra Hussein Najm.

The Defendants:

1. The Speaker of the Council of Representatives / being in this capacity - His agents, the official jurists Saman Mohsen Ibrahim and Aseel Samir Rahman.
2. The Prime Minister / being in this capacity - His agent the legal adviser Qasim Suhaib Shakour.
3. Minister of Finance / being in this capacity - His agent the legal adviser Amer Abbas Qadir.

The Claim:

The plaintiff, through his agent, claimed that the Speaker of the Council of Representatives, being in this capacity, issued his parliamentary decision No. (64) for the year 2024, which includes the approval of the estimates of the tables of the Federal Budget Law for the year 2024 and its annexes (Alif, Beh, Jim, Dal, Heh, and Waw), which was previously sent by the Council of Ministers under letter No. (23899) on 20/5/2024, violating the text of Article (2/First/5/Beh) of Law No. (13) of 2023 Federal General Budget for the fiscal years (2023-2024-2025), which stipulated ((When the selling price of one barrel of crude oil exceeds the price fixed in the Budget Law, (30% thirty percent) of the price

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difference increase shall be allocated to pay the late dues to the governorates and (70%) seventy percent of the budget deficit is calculated and financed on a quarterly basis, provided that its expenditure is in strategic and service projects within the most affected areas) in addition to increasing revenues resulting from the sale of other oil derivatives, where the financial allocations allocated within the investment budget for the year 2024 were reduced from the amount of (536,491,177,000) based on the letter of the Ministry of Planning / Government Investment Programs Department No. (2/8/21334) on 6/7/2023, to the amount of (180,994,862,000) contained in table (Beh) expenditures by Ministries for the year 2024, Chapter (54) Messian Governorate, and thus the reduction for all governorates of Iraq - including Maysan Governorate - has exceeded (220%) from the previous year despite the increase in oil revenues, and this is what was stated according to the report of the Parliamentary Committee, which will disturb the obligations of the governorate towards citizens, therefore, and in accordance with the provisions of Article (19) of the Internal Regulations Federal Supreme Court No. (1) of 2022 the plaintiff's request to add to his job from this court Ruling to cancel the Council of Representatives' decision No. (64) of 2024 and charge the defendant expenses and fees. After registering the case with this court No. (189/Federal/2024), collecting the legal fee for it, and informing the defendants of its petition and documents in accordance with Article (21/1st and 2nd) of the Court's Rules of Procedure No. (1) of 2022, the first defendant's agents replied with the reply dated 21/7/2024, which included detailed formal and substantive defenses in which they concluded the request to reject the case, due to the lack of jurisdiction of the court to consider it, as the texts that allowed the appeal the unconstitutionality of the laws and regulations in force does not include

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parliamentary orders the second defendant's agent responded with the reply dated 31/7/2024, according to which he requested to reject of the case, due to the lack of jurisdiction of the court to consider it, especially since Article (19) of the rules of procedure of the court on which the plaintiff relied is concerned with challenging the constitutionality of the laws and regulations in force, in addition to the lack of litigation against his client, especially since the parliamentary decision was not published in the Official Gazette and was issued in implementation of Article (77) of Law No. (13) of 2023 thus, his client sent the tables to the Council of Representatives for approval. After completing the procedures required by the court's internal regulations, a date was set for the consideration of the lawsuit without pleading based on Article (21/3rd) thereof, in which the court was formed and the lawsuit began to be heard, the court scrutinized the plaintiff's requests and supports and the defenses of the first and second defendants' agents and noted an answer from the third defendant's agent dated 18/8/2024 requesting to reject of the lawsuit for the reasons stated therein, and since 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 and after reviewing the statement of claim and the requests contained therein, the defenses of the defendants' agents, in addition to their jobs fixed in the highlighted regulations, it became clear that the plaintiff / being in this capacity he filed the lawsuit before this court against the defendants, the Speaker of the Council of Representatives, the Prime Minister and the Minister of Finance/ being in their capacity in accordance with the provisions of Article (19) of the rules of procedure of the Federal

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Supreme Court No. (1) of 2022 to demand the cancellation of Parliamentary Order No. (64) of 2024 adopted in the session of the Council of Representatives numbered (27) on 3/6/2024, of the fifth electoral cycle / third legislative year / first legislative term and to charge the defendants / being in their capacity the expenses, fees and advocacy fees for the reasons detailed in the lawsuit petition, The Federal Supreme Court finds that the plaintiff's claim / being in this capacity must be rejected, for lack of jurisdiction according to the formula the plaintiff based his lawsuit on the provisions of Article (19) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, which stipulated that (any of the three federal authorities, ministries and independent authorities the Prime Minister of the region, non-ministry entities and governors may request the court to rule on the constitutionality of a legal text or system...), but the plaintiff requested in his petition to rule on the cancellation of the parliamentary order issued by the Council of Representatives No. (64) of 2024, whereas the challenge of unconstitutionality focuses on the laws and regulations in force and does not exceed the challenge of unconstitutionality to others, including the aforementioned parliamentary order, based on the provisions of Article (93/1st) of the Constitution of the Republic of Iraq of 2005, and Article (4/1st) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, and in accordance with Article (19) of the internal regulations of the Federal Supreme Court No. (1) of 2022, in addition to the foregoing the jurisdiction and powers of this court are limited exclusively by Articles 52 and 93 of the Constitution article (4) of the amended Federal Supreme Court Law, and some other special laws, the jurisdiction and powers of the Court shall not exceed the annulment of the parliamentary order - the subject of the challenge - as responding to the request would interfere with the work of

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the Council of Representatives and cause interference in the powers and work of other authorities, contrary to the principle of separation of powers stipulated in Article (47) of the Constitution, and since the plaintiff is a prisoner of his request and the lawsuit is restricted by its petition, therefore, the plaintiff's claim must be rejected for lack of jurisdiction in accordance with the form in which the lawsuit is filed, in view of the above, the Federal Supreme Court decided as follows:

First: Rejecting of the plaintiff's lawsuit by the Governor of Maysan / being in this capacity, for lack of jurisdiction according to the formula in which the lawsuit is filed.

Second: Charging the plaintiff the Governor of Maysan / being in this capacity the fees, expenses 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 on all authorities 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 Hijjri corresponding to 18/8/2024 AD.

Judge
Jassim Mohammed Abood
President of the Federal Supreme Court

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