

Republic of Iraq
Federal Supreme Court
Ref. 210 / Federal / 2022



The Federal Supreme Court (F.S.C.) convened on 29.9.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Galeb Amer Shneen, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed Rajab, Ayoub Abbas Salih, Abed Alrahman Sulaiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

The appellant: Hakem Alwan Abed – his attorney Hussain Mehesen Swady Alshbeby.

The appeal is against 1. First Instance Court's decision of Karbala dated 25.8.2022.
2. the speaker of the Iraqi Council of Representatives/ in addition to his post.

The appeal summary:

The Presidency of the Karbala Federal Court of Appeal / Karbala Court of First Instance sent, according to its letter No. (44/Beh. Sin./2022 on 9/1/2022), the initial lawsuit file No. (44/Beh. Sin./2022) and the petition of the lawsuit filed to challenge the constitutionality of the dissolved Revolutionary Command Council's decision No. (84) for the year 2000, and the list of appeals against the decision issued by the aforementioned court dated 08/25/2022,

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 210 / Federal / 2022



through which it became clear that the appellant, Hakim Alwan Abd, submitted to the Karbala Court of First Instance, a list through his attorney, Hussain Muheisen Sawadi, dated (08/29/2022), the legal fee for it was collected on the same date, to appeal before the Federal Supreme Court the decision issued by the Karbala Court of First Instance dated 25/8/2022 containing the refusal to accept the lawsuit filed by him for which the legal fee was collected on 25/8/2022 to challenge the constitutionality of the dissolved Revolutionary Command Council's decision No. (84) for the year 2000 for the reasons referred to in detail and in its appendix dated 9/1/2022, in the minutes of the session dated 25/8/2022 due to preceding the decision on the constitutionality of the decision subject to appeal by the Federal Supreme Court according to its decisions issued (20/Federal/2008 on 7/22/2008), requesting an annulment of the decision of Karbala Court of First Instance dated 25/8/2022 and accepting the appeal against the constitutionality of the aforementioned decision and considering it following the provisions of the amended Federal Supreme Court Law and its bylaws, and based on that, the appeal was submitted.

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that the Karbala Court of First Instance issued its decision under appeal, which included refusing to accept the suit filed by the appellant, for which the legal fee was collected on 25/8/2022, to challenge the constitutionality of the

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 210 / Federal / 2022



dissolved Revolutionary Command Council's decision No. (84). For the year 2000, the appeal against the aforementioned decision was paid the legal fee for it on 28/8/2022, which means that the appeal is submitted within the legal period necessary for its submission following the provisions of Article (18/fifth) of the internal system of the Federal Supreme Court No. (1) For the year 2022, therefore, it was decided to accept the appeal in form, and upon consideration of its subject matter, it was found that the Karbala Court of First Instance issued its decision rejecting the acceptance of the aforementioned lawsuit, due to the ruling on the constitutionality of the decision subject to appeal by the Federal Supreme Court according to its decision No. (20/Federal/2008) in 7/22/2008, and accordingly, the decision of the Karbala Court of First Instance, subject of the appeal, is correct and following the provisions of the law for the reasons it was based on, because the judgments issued by this court are final and binding on all authorities and persons and are not subject to appeal in any way. One of the legally established methods of appeal based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005 and Article (5/Second) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and Article (36) of the bylaw of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, especially since the judgments issued by the Iraqi courts are considered an argument regarding the rights they have ruled and it is not permissible to accept evidence that

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 210 / Federal / 2022



contradicts the authority of the final judgments based on the provisions of Articles (105 and 106) of Evidence Law No. 107 of 1979, as amended, and based on the foregoing, he decided to reject the appeal submitted by (Hakim Alwan Abd) with the decision issued by the Karbala Court of First Instance dated 25/8/2022 containing (refusing to accept the lawsuit filed by him, for which the legal fee was collected on 25/8/2022 to challenge the constitutionality of the dissolved Revolutionary Command Council's decision No. (84) for the year 2000) and charge the appellant with fees and expenses and notify the Karbala Court of First Instance of that, while noting that Article (18/fifth) of the bylaw of the Federal Supreme Court has permitted the appeal against the decision issued by the trial court rejecting the unconstitutionality appeal filed before it or the lack of decision on it, before the Federal Supreme Court within seven days from the date of the rejection or the expiration of the period specified in item (Third) of the said article, which obligated the subject court to decide by accepting or rejecting the case within three days from the date of its submission, and that the aforementioned text touched upon the term of appeal at all and did not specify it in any other capacity, and therefore there is no place to give a discriminatory character to the appeal submitted before this court based on the provisions of the aforementioned article, which requires adherence to the term of appeal contained Article (18/fifth) of the bylaw of the Federal Supreme Court without describing it in any way, a final and binding decision issued by agreement based on the provisions of Article (94) of the

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 210 / Federal / 2022



Constitution of the Republic of Iraq for the year 2005 and Article (5) of the Federal Supreme Court Law No. (30) for the year 2005 amended by Law No. (25) for the year 2021, and issued in the session dated 2/ Rabi' al-Awwal/ 1444 AH corresponding to 9/29/2022 AD.

Signature of
The president

Jasem Mohammad Abbood

Athraa