

Republic of Iraq  
Federal Supreme Court  
Ref. 225 / federal /2023



Kurdish text

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The Federal Supreme Court (F S C) has been convened on 27/2/2024 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 Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Bassim Khazaal Khashan (member of the ICR).

The Defendants: the Prime Minister/ being in this capacity – his agents the legal counselors Qassim Suhaib Shakour and Abbas Majeed Shabeeb.

### **The Claim**

The plaintiff claimed in his petition that the Council of Ministers issued Internal Regulations No. (2) of 2019, which regulates the conduct of its work, and for including constitutional violations, he took the initiative to challenge it before this court for creating an institution called the General Secretariat of the Council of Ministers headed by the Secretary-General of the Council of Ministers and granting him some of the powers of the Council of Ministers, and some of the powers of its president, including issuing his own customs orders and the unilateral will of (the Secretary), as well as linking the offices of the ministers of state to the General Secretariat and not to the ministers or the Council of Ministers, and to make the determination of The staff of their offices is the prerogative of the Secretary-General and limiting the task of the Minister in this matter by simply proposing the employees whom the

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Secretary-General is competent to accept or reject, thus placing the Secretary-General in a higher rank than the ranks of ministers, and he also became a member of the presidency and an assistant to the President of the Council and assumed tasks, some of which exceeded the tasks of the President of the Council, which made the General Secretariat above all, therefore, the prosecutor asked this court to rule that articles 25, 26, 27, 33 sixth, seventh, and tenth of the internal system of the Council of Ministers are unconstitutional and canceled, due to their conflict with articles 47, 78, 80, and 85 of the constitution and their transgression of the powers and competencies of the Council of Ministers and its president specified in the constitution. After registering the case with this court No. (225/Federal/2023), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1<sup>st</sup> and 2<sup>nd</sup>) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, his agent replied with the reply dated 22/10/2023 Summary: The plaintiff's lack of interest in filing the lawsuit in accordance with the requirements of article 20 of the court's rules of procedure and article 6 of the Civil Procedure Law, and that the provisions of Chapter Eight of the challenged rules of procedure did not create the institution of the General Secretariat of the Council of Ministers, nor appointed its secretary, but stipulated it and regulated its structure, tasks and chairman. Articles of the Council of Ministers Law No. 20 of 1991, which referred the task of determining its functions and competencies to the internal system of the Council of Ministers - the subject of the challenge - based on his constitutional powers in article 80/third in terms of article 85 of the constitution, and the Prime Minister decides to issue Diwani orders in implementation of the provisions of the law and the decisions of the Council of Ministers, and writes them in writing and

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issues them by the Secretary-General of the Council of Ministers, whereas Article 85 of the Constitution stipulates that (the formations and competencies of the Cabinet Secretariat shall be determined by an internal system issued by the Prime Minister after the approval of the Council of Ministers) and that this text is absolute and absolute is subject to its release unless there is a text specifying or restricting its launch, and whereas the internal system - the subject of the appeal - was issued by the Prime Minister based on what was decided by the Council of Ministers in its decision No. (83) for the year 2019, taking into consideration that article (1) of the internal system was entrusted to the committee Legal Study of all topics presented to the Council of Ministers after the preparation of the agenda of the Council of Ministers by the General Secretariat of the Council of Ministers, according to the aforementioned text, the aforementioned committee consists of a number of specialists in legal, technical and economic affairs, so he requested the dismissal of the case and the plaintiff to be charged with expenses, fees and attorney's fees. After completing the procedures required by the Court's Rules of Procedure, a date was set for the pleading in accordance with Article (21/3<sup>rd</sup>) thereof, and the parties shall be informed of it, in which the court was formed, and the plaintiff and the defendant's agent attended and began to conduct the public presence pleading. After hearing their statements and requests and completing its checks, and nothing remains to be said, the court understood the conclusion of the pleadings and issued the following ruling:

**The decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff Bassem Khazal Khashan (member of the House

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of Representatives) filed this lawsuit against the defendant, the Prime Minister /being in this capacity, and requests a ruling on the unconstitutionality of Articles (25, 26, 27 and 33 / sixth, seventh and tenth) of the Bylaw of the Council of Ministers No. (2) of 2019, due to their conflict with Articles (47, 78, 80 and 85) of the Constitution, and their violation of the powers and competencies of the Council of Ministers and its President as set for them by the Constitution. This court finds that any of the natural persons has the right to file a direct action before this court to rule on the constitutionality of a provision in a law or regulation, provided that the lawsuit meets all the conditions stipulated in Articles (6, 44, 45, 46 and 47) of the Civil Procedure Law No. (83) of 1969, as amended, as Article (20) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022 stipulates that the plaintiff in the subject matter of the lawsuit has a case-by-case, direct and influential interest in his legal status. or financial or social, provided that such interest is available from the filing of the lawsuit until the issuance of the judgment thereon, and that the contested text has already been applied to the plaintiff, since the articles challenged by the plaintiff Bassem Khazal Khashan do not affect his legal, financial or social status, and are not applied to him in any way, therefore, the plaintiff's claim is subject to dismissal due to the lack of interest condition, the Federal Supreme Court decided as follows:

First: Dismissing the plaintiff's claim in the name of Khazal Khashan, due to the lack of interest condition.

Second: Bearing all fees and expenses and advocacy fees for the defendant's agents / being in this capacity of legal consultants Qasim Suhaib Mashkour and Abbas Majeed Shabib amount of one hundred thousand dinars distributed according to the law. The decision has been issued unanimously, final, and binding for all authorities according to

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the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been made clear on 16/Shaaban/1445 Hijri coinciding 27/February/2024 A.D.

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

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