

Republic of Iraq
Federal Supreme Court
Ref 27/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 20/3/2024 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, Dyar Mohammed Ali and Khaled Taha Ahmed who are authorized in the name of the people to judge and they made the following decision:

The Plaintiffs:

1. Mohsen Kazem Khuraibet – His agent the barrister Mahdi Abdul Redha Jassim.
2. Hossam Sabah Abdel Zahra.

The Defendants:

1. Prime Minister / being in this capacity - His agents the human rights employees Abbas Majeed Shabib and Qassem Suhaib Shakur.
2. Minister of Transport / being in this capacity - His agents the human rights employees, Hala Khalil Ibrahim and Enaam Jaafar Abed.

The Claim:

The plaintiffs claimed in the lawsuit petition that the Council of Ministers issued its decision No. (23689) for the year 2023, which includes separating the Iraqi Airports Administration from the Civil Aviation Authority and linking it to the Ministry of Transport / General Company for Iraqi Air Navigation Services and renaming it the General Company for Airports and Air Navigation Management based on the provisions of Article (47/2nd) of the Federal Budget Law for the years (2023-2024-2025) and for the illegality of the decision and the lack of a legal basis to link airports with the company, and its violation of the provisions of the Constitution and the law, and its violation of requirements and standards International Climate Aviation

Zainab

Republic of Iraq
Federal Supreme Court
Ref 27/ federal/2024



Kurdish text

Organization (ICAO) and the Air Transport Association, therefore, they took the initiative to challenge it before this court as it is unfair and harmful to the interest of the General Company for Air Navigation Services, which is one of the self-financing companies, as it covers the salaries and financial entitlements of its employees. In order to avoid the company entering into international violations and imposing sanctions on it, which would expose Iraq's supreme interest and international obligations to harm, the plaintiffs asked this court to rule on the unconstitutionality of the decision of the Council of Ministers and to issue a state order to suspend its enforcement until the case is resolved. After registering the case with this court in the number (27/Federal/2023), 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 Rules of Procedure of the Federal Supreme Court No. (1) of 2022, the first defendant's agent replied with the reply dated 4/3/2024, The second defendant's agent replied with the reply dated 8/2/2024, and the two lists included detailed formal and substantive defenses, the conclusion of which is: Request to reject the case for lack of jurisdiction of the court to hear it, and after completing the procedures required by the rules of procedure of the court a date was set for the pleading in accordance with Article (21/3rd) thereof, and the parties shall be informed of it, and in it the court was formed, and the first plaintiff in particular, and lawyer Mahdi Abdul Reda Jassim attended as an agent for the second plaintiff, and the first defendant's agent and the second defendant's agent human rights employee Anaam Jaafar Abed, and the Public presence pleading was conducted and the first plaintiff repeated the defendants' agents answered and requested to reject the lawsuit for the reasons stated in the regulations presented in the lawsuit and requested the rejection of the annulment request, the

Zainab

Republic of Iraq
Federal Supreme Court
Ref 27/ federal/2024



Kurdish text

court decided to reject the annulment request because the lawsuit is ready for resolution, and since the court completed its scrutinies, the end of the argument 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 lawsuit of the plaintiffs Mohsen Kazem Khuraibet and Hossam Sabah Abdel Zahra is the ruling on the constitutionality of the Council of Ministers Resolution No. 23689 issued on 30/11/2023, as it does not comply with the provisions of the Constitution, and does not comply with the international requirements issued based on its requirements, namely the International Civil Aviation Organization (ICAO) and the Air Transport Association (IATA) and for the reasons detailed in the statement of claim and after the public presence pleadings and the court's review of the list of the first defendant's agents. Prime Minister/ in addition to his post dated 4/3/2024, in which they requested to reject the lawsuit in form and substance for the reasons detailed therein, the court also reviewed the list of the second defendant's agent, the Minister of Transport, in addition to his job dated 8/2/2024, in which it requested to reject the lawsuit for the reasons stated therein and for the court's rejection of the request of the second plaintiff's agent, lawyer Mahdi Abdel Redha, who filed regarding the annulment of the lawsuit petition for his client in the court session dated 20/3/2024, because the lawsuit is ready for resolution and for the decision of this court No. (27/Federal/State Order/2024). On 21/1/2024, which includes the refusal to issue the state order for the reasons stated therein, and from the foregoing, this court finds that its jurisdiction in ruling unconstitutionality goes to the laws and regulations

Zainab

Republic of Iraq
Federal Supreme Court
Ref 27/ federal/2024



Kurdish text

in force based on Article (93/I) of the Constitution of the Republic of Iraq for the year 2005, it does not refer to the decisions issued by the Council of Ministers, including this decision, so the lawsuit in the form in which it was filed is outside the jurisdiction of this court contained in Article (93/1st) of the Constitution, and for all of the above, the Federal Supreme Court decided to rule as follows:

First: reject of the plaintiffs' lawsuit (Mohsen Kazem Khuraibet and Hossam Sabah Abdel Zahra) for lack of jurisdiction according to the form in which the lawsuit is filed.

Second: Charging the plaintiffs with fees, expenses and attorneyship fees for the first defendant's agents Prime Minister / being in this capacity the legal advisers Abbas Majeed Shabib and Qassem Suhaib Shakour and attorneyship fees for the second defendant Minister of Transport in addition to his job, human rights employees Hala Khalil Ibrahim and Anaam Jaafar Abd an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, final and binding according to 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. The decision has been made clear on 9/Ramadan/1445 A.H. corresponding to 20/3/2024 AD.

Judge
Jasem Mohammad Abboud
President of the Federal Supreme Court

Zainab