

Republic of Iraq
Federal Supreme Court
Ref 337/ federal/2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 5/2/2024 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: Basim Khazal Khishan.

The Defendant: Head of the Iraqi Council of Representatives / being in this capacity - His agents human rights employees/ Saman Mohsen Ibrahim and Aseel Samir Rahman.

The Claim:

The plaintiff claimed in the petition that in the sixteenth session held on Saturday, 30/September/2023, the Council of Representatives approved the law ratifying the exemption of holders of diplomatic and service passports from the entry visa between the Government of the Republic of Iraq and the Government of the Republic of Cyprus, by an absolute majority, contrary to the Constitution, and this was confirmed by the Speaker of the Council of Representatives, who presided over this session when voting on this law, Although the Constitution stipulates in article 61/IV thereof, however, the Council of Representatives is competent to (regulate the process of ratification of international treaties and conventions by a law enacted by a two-thirds majority of the members of the Council of Representatives), and the approval of the Speaker of the Council to pass this agreement by an absolute majority is evidence of ignorance of the Constitution and the lack of distinction

Zainab

Republic of Iraq
Federal Supreme Court
Ref 337/ federal/2023



Kurdish text

between what may be enacted by a simple majority, and what must be enacted by a two-thirds majority of the members of the Council, and this ignorance led to a defect in the enactment of laws of international treaties and conventions in the Council of Representatives, he therefore asked the Court to rule that the aforementioned law was unconstitutional, since this action was instituted for the purpose of correcting the serious errors of the Federal Supreme Court it prevents its recurrence, so that the violation of the constitution is not repeated out of ignorance of its provisions, or deliberately in the Council of Representatives, which swore all its members to implement legislation faithfully and impartially. After registering the case with this court issue (337/Federal/2023) and collect the legal fee for it and notify the defendant 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, his agents replied with the reply regulation dated 14/1/2024, which concluded: The plaintiff did not indicate the case, direct or influential interest in his legal, financial or social status, or that the contested text had actually been applied to him, in accordance with Article (20/1st and 2nd) of the Rules of Procedure of the Court, the contested law was also received by the Council of Representatives in the form of a draft law from the General Secretariat of the Council of Ministers, and it fulfilled the simple formality of the number of members of the Council of Representatives present, and voted on it in accordance with the provisions of articles 59/2nd and 61 of the Constitution of the Republic of Iraq for the year 2005, Therefore, all legislative procedures related to the enactment of the law met the formal and substantive conditions of its legislation in accordance with the Constitution, so they requested the dismissal of the plaintiff's lawsuit and charging him fees, expenses and agent's fees. After completing the procedures required by the rules of procedure of the court, a date was set

Zainab

Republic of Iraq
Federal Supreme Court
Ref 337/ federal/2023



Kurdish text

for the consideration of the case without pleading in accordance with Article (21/3rd) thereof, in which the court was formed and began to consider the case, The court scrutinized the plaintiff's requests, his supports, and the defenses of the defendant's agents, 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 found that the plaintiff Bassem Khazal Khashan filed a lawsuit before this court and asked for a ruling on the unconstitutionality of the law ratifying the exemption of holders of diplomatic and service passports from the entry visa between the Government of the Republic of Iraq and the Government of the Republic of Cyprus, The court finds that one of the conditions that must be met to accept the lawsuit is the existence of the interest stipulated in Article (6) of the Civil Procedure Law No. (83) of 1969, as amended, which states (The lawsuit requires that the defendant has a known, case, possible and verified interest, however, the potential interest is sufficient if there is a reason to fear harm to the concerned parties, it is also permissible to claim a deferred right, provided that the term is taken into account when adjudicating it, and in this case the plaintiff bears the expenses of the lawsuit) as well as stipulated article (20) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, which requires that the plaintiff have a current, direct and influential interest in his legal, financial or social status, provided that it is available from the filing of the lawsuit until the issuance of the judgment thereon, and that the text challenged as unconstitutional has already been applied to the plaintiff, otherwise the plaintiff has benefited from the contested text in whole or in part,

Zainab

Republic of Iraq
Federal Supreme Court
Ref 337/ federal/2023



Kurdish text

whereas the plaintiff is a member of the Council of Representatives and a holder of diplomatic and service passports, and thus has benefited from the impugned text, and therefore his interest in bringing this suit is no longer available and his claim is free to respond from this aspect, accordingly, and when the foregoing, the Federal Supreme Court decided to dismiss the lawsuit of the plaintiff Bassem Khazal Khashan for lack of interest and to charge him the fees and expenses and the amount of one hundred thousand dinars agent's fees and the defendant's agents. In addition to his position, it shall be distributed in accordance with the law. The decision has been issued unanimously according to the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and (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 24/Rajab/1445 Hijri corresponding to 5/2/2024 AD.

Judge
Jasem Mohammad Abboud
President of the Federal Supreme Court

Zainab