

Republic of Iraq  
Federal Supreme Court  
Ref 78/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 22/4/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Khalid Taha Ahmed who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Mustafa Jabbar Sanad – His agents the barristers Mohammed Majeed Rasan, Ahmed Mazen Abdul Wahed and Yasser Falah Hassan.

The Defendants: 1. The Prime Minister, being in this capacity- His agent the Legal adviser, Haidar Ali Jaber.

2. Minister of Construction Housing and Public Municipalities / being in this capacity - his two agents the official jurists Haitham Ali Khudair and Baraa Mardi Matar.

**The Claim:**

The plaintiff claimed that the defendant, being in this capacity, issued Decision No. (24072) of 2024, which included in paragraph (5) thereof, the directive to issue the investment license in the name of (Ora Developers Iraq) after completing the legal procedures for its establishment, which belongs to the Egyptian businessman (Najib Sawiris), who is known for his support for Israeli normalization through his tweets on his officially documented page in (Twitter), and thus dealing with this company is a clear legal violation, as obligated by the Law Criminalizing Normalization with the Zionist Entity No. (1) of 2022, which aims to prohibiting and criminalizing normalization with the Zionist entity and preventing relations with it in any way, and contracting with it allows its owner to promote the normalization

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process prohibited by Article (13) of the Normalization Criminalization Law, which stipulates that (a foreigner is prohibited from promoting normalization within Iraqi territory or calling for a relationship with the Zionist entity), thus, it is clear that contracting with the said company is an act that would achieve a form of dealing therefore, the court was asked to rule that the Council of Ministers' decision No. (24072) of 2024 is incorrect, and charging the defendants with fees, expenses, and advocacy fees. After registering the case with this court No. (78/Federal/2024) and collecting the legal fee for it, and informing the defendants 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, the first defendant's agent responded with the answering draft dated 28/2/2024, its summary: That the plaintiff's request is outside the jurisdiction of the court specified under Article (93) of the Constitution and Article (4) of the Court Law No. (30) of 2005, in addition to the lack of interest condition for the plaintiff to file the lawsuit before the court, considering that the decision of the Council of Ministers - the subject of the appeal - does not prejudice his rights in a manner that directly harms him, and that the plaintiff based his claim on the assumption and based on what he believes that the aforementioned investor is known for his relations with the Zionist entity, and that contracting with the said company allows its owner to promote the normalization process, an assumption that is not in place, has no basis of fact and no evidence for it, and thus the plaintiff's belief is not considered evidence for judgment considering (that the origin of the things is patent and in incidental qualities nothingness) based on articles (6 and 99) of the evidence law No. (107) of 1979, and therefore it is not considered evidence of judgment based on Article (7) of the same law, and what was published on social media is not evidence of the

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investor's subordination to the aforementioned entity, and expressing an opinion on a specific subject of an entity is not considered subordination to it, association with it, and work to achieve its interests, as Article (1/2<sup>nd</sup>) of the Law Criminalizing Normalization with the Zionist Entity No. (1) of 2022 stipulates the definition of normalization criminalized by the aforementioned law as (any act that would investigate the Zionist entity) any form of dealings or leads to it, whether directly or indirectly, with the aim of establishing a relationship with the Zionist entity), therefore, referring the contract to the aforementioned investor is not considered any form of dealing with the Zionist entity, and his client does not aim to establish a relationship with the Zionist entity or think about it, as stipulated in Article (13) of the Law Criminalizing Normalization that (a foreigner is prohibited from promoting normalization within Iraqi territory or calling for a relationship with the Zionist entity) and since the investor did not perform the acts described in the text above, so the plaintiff cannot assume the opposite or speculate on anything it has not yet happened, so the plaintiff's claim has no basis in law in addition to the fact that the company is not included in the blacklist issued by the Ministry of Planning and constantly updated under which it is prohibited to contract with companies listed therein, therefore, he requested to reject the appeal in form and substance and charging the plaintiff with the expenses, fees and attorneyship fees. The second defendant's agents replied in the reply dated 26/3/2024 its summarizer: The acceptance of companies and granting them investment license and dealing with them requires that they are not included in the black list confirmed in the Ministry of Planning and this is checked before granting any company an investment license, and that dealing with such contracts is not with individuals, but with companies with legal personality and financial and administrative independence, and the

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institution in accordance with the laws of the countries of incorporation therein if they are foreign and in accordance with the amended Iraqi Companies Law No. 21 of 1997, when they were established in Iraq or opened a branch, and the housing policy in Iraq is drawn up and determined by the federal government and confirmed by the government program of the federal government, in addition to the non-application of the text of article (13) of the law criminalizing normalization with the Zionist entity and the failure of the interest to verify the filing of the lawsuit in accordance with the provisions of Article 6 of the Civil Procedure Law No. 83 of 1969, and Article 20 of the rules of procedure of the court, so they requested to reject of the plaintiff's claim and bear the expenses, fees and attorneyship fees. After completing the procedures required by the Rules of Procedure of the Court a date was set for the pleading and the parties were informed of it, and the court was formed, and lawyer Yasser Falah attended as an agent for the plaintiff the defendant's agent attended and the public presence pleading began to conduct, and after the court heard the statements of each party and 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 plaintiff Mustafa Jabbar Sanad's lawsuit, through his agent, he requested a ruling on the invalidity of the Council of Ministers' decision No. (24072) for the year 2024, which included in paragraph (5) thereof, the directive to issue the investment license in the name of (Ora Developers Iraq) after completing the legal procedures for its incorporation, and that this company belongs to the Egyptian businessman (Najib Sawiris), who was known for his support for Israeli

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normalization through his tweets on his officially documented page in the (Twitter) program, one of the social networking sites, therefore, dealing with this company is an explicit legal violation, as it violates what the law criminalizing normalization with the Zionist entity No. (1) for the year 2022, and dealing with this company allows its owner to promote for the normalization process prohibited by Article (13) of the aforementioned law, and after the public presence pleading the court reviewed the documents submitted by the plaintiff's agents, including the decision issued by the Council of Ministers No. (24072) of 2024, which included seven paragraphs, including paragraph (5), which stipulated that ((The investment license for the project shall be issued in the name of (Ora Developers Iraq) and after completing the legal procedures for its establishment in accordance with the law, and submitting the legal requirements necessary to issue the investment license in accordance with the law)) the court also reviewed pictures of publications attributed to the so-called (Najib Sawiris), including in Al-Akhbar newspaper with a prominent headline (Not in defense of Okasha or out of love for Israel... Is it reasonable to ask Israel for peace and at the same time tell them we hate you) with a comment attributed to the same person on the subject with other comments attributed to the same person there are five on social networking sites about the conflict between the Zionist entity and the Palestinian people, the court then reviewed the answer of the first defendant's agent, the Prime Minister, in addition to his job dated 28/2/2024, in which he requested to reject the lawsuit from a formal and substantive point of view for the reasons he detailed in its regulations, the most important of which is that referring the investment contract to the investor company is not a form of dealing with the Zionist entity and that the company is not included in the black list issued by the Ministry of Planning, the court is also not competent to

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hear the case and the plaintiff does not meet the condition of interest in his claim, because the decision of the Council of Ministers does not prejudice his rights and does not cause direct harm to them, as the court reviewed the list of the second defendant's agent Minister of Construction, Housing and Public Municipalities in addition to his job that was submitted on 26/3/2024 in it, he also requested that the lawsuit be dismissed for the reasons stated therein, the most important of which is that the contract is with companies with legal personality and not with individuals, as well as the non-application of Article (13) of the law criminalizing normalization with the Zionist entity the court also reviewed the response list submitted by the plaintiff's agents on 22/4/2024, in which they requested a judgment according to what was stated in the lawsuit petition, after the foregoing, this court finds that the right to litigation before the constitutional courts is the same as the right to litigation before ordinary courts it is not just to put forward legal ideas and prove the validity of an abstract legal idea of material interest or directly moral of the plaintiff shall be the purpose and objective of filing the lawsuit as required by the provisions of Article (6) of the Civil Procedure Law No. 83 of 1969, as amended, which requires the acceptance of the lawsuit that the plaintiff has a known, case, possible and verified interest, and the interest is the benefit that the plaintiff seeks to obtain from his filing of his lawsuit one of the characteristics of this interest is that it is personal, as the specific public interests do not allow any person to initiate a constitutional lawsuit to defend it except in specific cases, such as related to public money and the duty to defend it based on Article (27/1<sup>st</sup>) of the Constitution of the Republic of Iraq, or that the defense of the public interest overlaps with the plaintiff's defense of his personal rights derived from these public interests, which are based on constitutional or legal rights established for citizens under

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the provisions of the Constitution or the law whereas, the plaintiff's claim (the subject of the research) came specific and free of the condition of interest referred to its features in the foregoing and thus be with this legal defect qualified and worthy of response to the failure of one of the conditions for acceptance, it decided the Federal Supreme Court to rule as follows:

First: Reject of the plaintiff's lawsuit Mustafa Jabbar Sanad, due to the lack of the necessary interest condition for its initiating.

Second:Chargin the plaintiff with fees, expenses and advocacy fees of the first defendants' agents, the Prime Minister, and the second the Minister of Construction, Housing and Public Municipalities, being in their capacities, an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, final and binding in accordance with the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and articles (4 and 5/2<sup>nd</sup>) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and it has been made clear on 13/Shawwal/1445 A.H. corresponding to 22/4/2024 A.D.

**Judge**  
**Jasem Mohammad Abboud**  
**President of the Federal Supreme Court**

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