

Republic of Iraq
Federal Supreme Court
Ref. 86 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 14/6/2023 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: Dr. Jabbar Joodi Jabbar – Iraqi Artists Bâtonnier/ being in this capacity – his agent the barrister Khadhim Abbas Al-Kinani.

The Defendants: 1- Speaker of the ICR/ being in this capacity – his agents, the legal counselor Haytham Majid Salim and the official jurist Saman Muhsin Ibrahim.

2- Minister of Reconstruction, Housing and Public Municipalities/ being in this capacity – his agent, the assistant legal counselor, each of Rusul Kamil Jawad and Haytham Ali Khudhair.

The Claim

The plaintiff, through his agent, claimed that the Iraqi Parliament approved during 2016 a law banning alcoholic beverages, which was published in the Iraqi Gazette in 2023, and that it contradicts the rights and freedoms recognized by the Constitution for all components of Iraqi society, as it prohibits under Article (14) of it the import, manufacture and sale of alcoholic beverages, and imposes penalties and fines on those who violate this, and that the Iraqi

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Artists Syndicate includes many segments of artists, including musicians and singers working in hotels and clubs that Receives many Iraqis, Arabs and foreigners, whereas, the Council of Ministers issued a decision on February 14, 2023 to impose customs duties of (200%) on alcoholic beverages imported into Iraq, provided that it is applied for a period of four years, which generated a contradiction in the issuance of decisions by the legislative and executive authorities in this regard, since the Iraqi Artists Syndicate is concerned with defending the personal freedoms of all Iraqis as they represent culture, art, beauty, tourism and literature, the plaintiff asked this court to issue a decision to cancel Article (14) of the Municipal Imports Law No. (1) of 2023 for its unconstitutionality. The lawsuit was registered with this court in number (86/federal/2023) and the legal fee was paid for it, and the defendants shall be informed of its petition and documents in accordance with Article (21/1st and 2nd) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, The first defendant's agent replied in the answering draft dated 8/5/2023 in its conclusion that Article (2/1st) of the Constitution affirmed that Islam is the official state religion and is a basic source of legislation, and it is not permissible to enact laws that contradict Islamic law, and Muslims in their various sects have unanimously agreed on the sanctity of the trade in alcohol and the sanctity of its consumption and that the text - the subject of the challenge - was consistent and embodied the constitutional texts and does not violate it, and it is one of the legislations approved by the Council of Representatives in accordance with its competence in Article (61/1st) of the Constitution. After completing the procedures required by the Court's Rules of Procedure and after the lapse of the period stipulated in Article (21/3rd) thereof, a date for the pleading was set and the

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parties were informed of it, and on the appointed day, the court was formed, so the parties' agents attended and began the public presence pleading, the plaintiff's agent repeated what was stated in the lawsuit petition and requested judgment according to what was stated in it, and the first defendant's agent answered and requested the dismissal of the lawsuit for the reasons stated in the answering draft dated 8/5/2023, and the second defendant's agent answered and requested the dismissal of the lawsuit for the reasons stated in the response list dated 12/6/2023, and each party repeated its previous statements and requests since the court has completed its audits, the end of the argument has been made clear and the court has issued the following ruling:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff Jabbar Judi Jabbar, head of the Iraqi Artists Syndicate, in addition to his job, had filed the lawsuit before this court requesting a ruling on the unconstitutionality of Article (14) of the Municipal Imports Law No. (1) of 2023, which included preventing the import, manufacture, and sale of alcoholic beverages, and imposing penalties on those who violate this, for violating the principle of freedoms guaranteed by the constitution, since the Iraqi Artists Syndicate is concerned with defending personal freedoms as it represents culture, art, tourism, and literature, it is therefore requested that the defendants be summoned to the Speaker of the Council of Representatives and the Minister of Construction, Housing, Municipalities, and Public Works, in addition to their functions, to plead and rule on the unconstitutionality of the said article. The first

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defendant's agent, the Speaker of the Council of Representatives, replied in addition to his job under his regulation dated 8/5/2023, requesting the dismissal of the lawsuit, as the contested text was issued based on the will of the Council of Representatives and approved following its competencies stipulated in Article (61/1st) of the Constitution of the Republic of Iraq for the year 2005 and in line with the text of Article (2/1st) of the Constitution, which affirmed that Islam is the official state religion, and it is a basic source of legislation, It is not permissible to enact laws that contradict Islamic Sharia, as the second defendant's agents, the Minister of Construction, Housing, Municipalities and Public Works, responded by virtue of their regulations dated 12/6/2023, requesting that the lawsuit be formally dismissed from their client, as he is not a litigant for not having the right to legislate that falls within the jurisdiction of the Council of Representatives, and the Federal Supreme Court finds that Article (20) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022 has required that the plaintiff in the lawsuit filed before This court, in addition to the conditions stipulated in the Code of Civil Procedure, has a current, direct, and influential interest in his legal, financial, or social status, and that the challenged text or decision has actually been applied to it, and that it has not benefited from that text or decision in whole or in part, that is, the constitutional lawsuit is not accepted by anyone other than the persons who are harmed by the validity of the contested text or decision, and this damage must always be separate from the mere violation of the contested text or decision of the Constitution assuming the existence of such violation, and that such damage is independent of its elements and can be identified, due in its source to that decision, if the contested text or decision has not actually been

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applied to those who claim to have violated the Constitution, or the violation of the rights that The court found that the plaintiff works as a syndicate of Iraqi artists and that the impugned text was not applied to him, the lawsuit does not benefit him and does not change his legal, financial or social status, so the interest condition is absent in his lawsuit, which requires its dismissal from this authority. Accordingly, and upon the above and the request, the Federal Supreme Court decided to dismiss the lawsuit of the plaintiff Jabbar Judi Jabbar, head of the Iraqi Artists Syndicate, in addition to his job, and charging him fees, expenses, and advocacy fees, the first defendant's agent, the Speaker of the Council of Representatives, in addition to his job, the legal adviser Haitham Majid Salem, the human rights employee Saman Mohsen Ibrahim, and the second defendant's agents, the Minister of Construction, Housing, Municipalities, and Public Works, in addition to his position, the assistant legal adviser, Russel Kamel Jawad, and the assistant legal adviser Haitham Ali Khudair, an amount of (one hundred thousand) Dinars distributed among them in accordance with the law. The decision has been issued unanimously, final, and binding for all authorities according to the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and article (4) 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 25/Dhul Qaeda/1444 Hijri coinciding with 14/June/2023 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court

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