

Republic of Iraq
Federal Supreme Court
Ref. 90 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 28/5/2023 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, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiffs: 1. Bassim Hashim Dubais.
2. Salih Mahdi Mohammed.

Their agent the
barristers, Nihad Abbas
Fadhil and Hazim
Hashim

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. Iraqi Journalists Bâtonnier/ being in this capacity – his agents, the barristers, Niama Hasan Al-Rubaie and Hamza Qais Mohammed.

3. Board of Iraqi Journalists Syndicate.

The Claim

The plaintiffs claimed through their agent that the Iraqi Council of Representatives issued Law No. (56) of 2017 (the Fourth Amendment Law of the Iraqi Journalists Syndicate Law No. (178) of 1969, violating the legal, constitutional, and legislative mechanisms, and the Syndicate Council 2017 proposed the amendment - the subject of the lawsuit - in accordance with Article (23/2) of the Iraqi Journalists Syndicate Law No. (178) of 1969 as amended, although he does not have legal status as he expired in January of 2016 and is not entitled to propose an amendment and has continued to exercise his duties contrary

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to the law, the amendment came less than two months after the issuance of Law No. (48 of 2017 - the law to cancel the dissolved Revolutionary Command Council Resolution No. 180 of 1977), according to which the possibility of re-election of the president or president in the unions was canceled more than once in a row, and the Council of Representatives did not adhere to the legislative path set by Article (23/2) of the Syndicate Law, which requires the Council of the Association to present proposals to amend the law to the General Assembly for consideration before submitting them to the competent authorities, and the Council of the outgoing Association to include proposals to amend the extension of the term of office of the President of the Journalists Syndicate, members of the Council of the Association and members of the Control and Discipline Committees to four years, contrary to what prevails in the labor laws of unions and federations, which limit the duration of their term to three years and twice, article (6) of the amendment law included forcing media institutions to pay subscriptions to the Journalists Syndicate at the beginning of each year and using this subscription as a cover to grant accreditation as a quota for press institutions, which is contrary to the constitutional principles in Article (38/2nd) of the Constitution, which affirmed the state's guarantee of freedom of expression, so the plaintiffs asked this court to revoke the Fourth Amendment Law No. (56) of 2017 to the amended Iraqi Journalists Syndicate Law No. (178) of 1969, and to charge the defendants the expenses and advocacy fees. The lawsuit was registered with this court in the number (90/Federal/2023) and the legal fee was collected for it, and the defendants were informed of its petition and documents based on Article (21/1st and 2nd) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, and the first defendant's agent replied with the reply regulation dated 14/5/2023, it concludes that the law subject of the lawsuit was enacted following the competencies of the Council of Representatives based on Article 61/1st of the Constitution, and it is a legislative option that does not violate the provisions of the Constitution, and the court does not have jurisdiction to consider a violation of The law - the subject of challenge - of other laws, so they asked to dismiss the plaintiffs' lawsuit. The second defendant's agent replied with the reply dated 20/5/2023, it concludes that the law was issued after it went through stages of discussions and in-depth dialogue between the press family to reach the best provisions that the Iraqi

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Journalists Syndicate achieves and seeks to achieve, and it was issued in line with the provisions of the constitution and enshrines press freedoms and freedom of opinion and expression, so they requested the dismissal of the lawsuit. 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 on the appointed day, the court was formed, so the first plaintiff attended, and lawyers Nihad Abbas Fadel and Hazem Hashem Dubais attended as agents for the plaintiffs, and the first defendant's agent, official jurist, Saman Mohsen Ibrahim, attended, the second defendant was represented by his agent Nima Hassan, and the third defendant or his agent did not appear despite the notification in accordance with the law, and the public presence pleadings were initiated. The first plaintiff and the plaintiffs' agents repeated what was stated in the lawsuit petition and requested a judgment accordingly, the defendants' agents answered and each of them requested to dismiss the lawsuit on behalf of his client for the reasons stated in the regulations linked to the lawsuit papers since the Court has completed its audits, I understand the conclusion of the pleadings and issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiffs' lawsuit focuses on demanding the annulment of Law No. (56) of 2017 (the Fourth Amendment Law to the Iraqi Journalists Syndicate Law No. (178) of 1969, as amended for violating the provisions of Article (38/2nd) of the Constitution of the Republic of Iraq for the year 2005 - which affirmed the state's guarantee of freedom of expression - because the Syndicate Council proposed the amendment despite the fact that it does not have the legal authority to submit such a proposal, which is the competence of the General Assembly of the Syndicate. The aim is to create a dictatorship and perpetuate the perpetuation of office, contrary to the principles of peaceful rotation of power, this is done by extending the term of office of the Journalists Syndicate, members of the Syndicate Council, and members of the Control and Disciplinary Committees to four years, renewable contrary to what prevails in the laws of federations and syndicates, in addition to forcing media institutions under Article (6) of the above amendment to pay

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subscription amounts to the Journalists Syndicate at the beginning of each year. The court found through the examination that the plaintiffs' request is limited to the revocation of the amendment law No. (56) of 2017 for the reasons referred to above, and since the powers of this court are limited under Articles (52 and 93) of the Constitution of the Republic of Iraq for the year 2005 and other special laws, and not among those powers the jurisdiction of the court to veto laws, regulations, judgments or decisions, thus, the plaintiffs' lawsuit, as contained in the petition, must be dismissed for lack of jurisdiction, and when the foregoing, the Federal Supreme Court decided to dismiss the plaintiffs' lawsuit in the name of Hashem Debis and Saleh Mahdi Mohammed for lack of jurisdiction and to charge them fees, expenses and advocacy fees of the first and second defendants' agents, 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 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 edited in the session dated 22/Dhul Qaeda/1444 Hijri coinciding with 12/June/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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