

Republic of Iraq
Federal Supreme Court
Ref. 95 / federal /2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 12/5/2022 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Hayder Jaber Abid, Khalef Ahmed Rajab, 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 Applicants: several students whose names are listed in the attached list herewith is the request starting by the sequence (1. Rasool Abid Hammoud) and ended by /(230. Mays Khalid Rahi) their agents, the barristers Mohammed Yaseen Hasan and ALa'a Nazar Mohammed.

The Request Subject: determination of constitutionality and legitimacy of parallel education.

The Request

The Federal Supreme Court has received a request from a group of students mentioned in the list attached to it, which begins with (1. Rasul Abid Hammoud) and ends with (230. Mays Khaled Rahi), entitled (Parallel education decision applied in Iraqi universities and colleges (government)) which includes its conclusion: (We ask the Federal Supreme Court to decide according to the decision of the Minister of Higher Education and Scientific Research 2016, which includes the introduction of the decision of parallel education for students admitted to Iraqi public universities and colleges, Which harmed the interest of the students whose names were attached to the request, as the above-mentioned resolution violated the text of articles (28 and 34) of the Constitution of the Republic of Iraq 2005,

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In particular, parallel education was applied to a wide range of students in Iraqi public universities and colleges, which is (a decision, not a law) and was unfair to outstanding students and their families, as their parents were forced to pay large sums of money burdened them despite the fact that the grades and rates of students of parallel education compete with the grades and rates of students of free education and are lower by only tenths of grades at the level of the general total and not the rate obtained in the ministerial examinations at the preparatory stage, in addition to the decision of parallel education Contrary entirely to the provisions of the Constitution and the practice of the iraqi laws in force, which confirmed, guaranteed, and ensured free education in public universities and colleges) and on the basis of the above, the application was submitted to this court to indicate the legitimacy and constitutionality of the parallel education decision and whether it is contrary to the articles of the Iraqi Constitution or not?.

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that the application submitted included an inquiry into the legitimacy and constitutionality of the parallel education decision and whether it was contrary to the articles of the Iraqi Constitution? The Federal Supreme Court finds that its jurisdictions and powers are defined under articles (52 and 93) of the Constitution of the Republic of Iraq 2005 and Article 4 of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and articles listed in other special laws, including the answer to those inquiries. Therefore, this court is not competent to answer the inquiry listed in the application, particularly since article (93/1st and 3rd) of the

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Constitution and articles (4/1st and 3rd) of the amended Federal Supreme Court Law have defined the jurisdiction of the Federal Supreme Court to control the constitutionality of laws and regulations in force and to adjudicate cases arising from the application of federal laws, decisions, regulations, instructions, and procedures issued by the federal authorities, and that the Bylaw for the functioning of the Court Federal Supreme No. (1) for 2005 Published in the Iraqi Gazette No. (3997) on 2/5/2005 under its articles, the mechanism to be adopted in order for the court to exercise its role in controlling the constitutionality of the laws and regulations in force or adjudicating cases arising from the application of federal laws, decisions, regulations, instructions and procedures issued by the federal authorities, through the filing of the constitutional proceedings before it, as article (1) of it stipulated that the subject matter of the dispute should be submitted in accordance with the procedures provided for in the same article, as stipulated in article (6) of it (if a plaintiff requests, adjudication of the legality of a provision in the law of the same article). Or a legislative decision, system, instructions, or order, the application shall be filed on a claim that meets the requirements of articles (44, 45, 46, and 47) of the Civil Procedures Law, and the case should be filed by a Barrister with full power...), this means that the application submitted has not lived up to the constitutional proceedings until its matter is decided by this court for not mentioning the name of the defendant, in particular, that the determination of the legality of a provision in a law, legislative decision, system or instructions upon request, is submitted exclusively by the courts, during the hearing of the case, directly to the Federal Supreme Court, and individuals do not have such an advantage, based on the text of the article (3) of the

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forementioned rules of procedure, as not Non-courts may make such requests, and for failure to observe the provisions of the rules of procedure for the conduct of the work of the Supreme Federal Court mentioned above in the application and in accordance with the principle of judicial independence constitutionally provided for by articles (19, 87, 88, 89, 90, 91, 92/1st and 93) of the Republic of Iraq Constitution for 2005, and while the Court is incompetent to answer the request of the inquiry presented to it. Therefore, the Court decided to reject the request formally. The decision has been issued unanimously, decisive, and binding for all powers according to the provisions of the articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5/2nd) 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 10/Shawal/1443 Hijri coinciding 12/May/2022 AD.

Signature of
The president
Jasem Mohammad Abbood

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