



The Federal Supreme Court (F.S.C.) convened on 23.11.2021 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

The plaintiff:

Saad Abdul-Muhaimin Muhammad Suleiman - his two attorneys are lawyers Abdul-Hadi Karim Kazem and Shabib Khalis Shabib.

The defendants:

1. The Secretary-General of the Council of Ministers / in addition to his position.
 2. The Prime Minister / In addition to his position.
 3. Chairman of the Board of Auditing and Oversight Profession / in addition to his post.
- their deputy is the legal advisor- Haider Ali Jaber.

The claim:

The plaintiff claimed, through his attorney, that the Board of Audit and Oversight Profession imposes fees for approving the budgets of the economic units of the private sector of all kinds, as follows: (Iraqi economic units at 25,000 dinars, foreign economic

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units at 500,000 dinars, adjustment of accounts of economic units is one million dinars) and where these fees have no legal basis, as the regulation of practicing the profession of auditing and monitoring of accounts No. (3) of 1999, as amended, did not grant the Council of the profession of auditing and auditing the authority to impose any fees on the approval of transactions, and that Article (28 / first) of the Iraqi constitution stipulates (Taxes and fees shall not be imposed, nor amended, nor collected, nor exempted from, except by law.) Accordingly, the third defendant's department would be in violation of the constitution and laws by imposing fees on approving the budgets of economic units and others due to the absence of Regulation No. (3) of 1999 regarding the organization of the work of the Monitoring and Audit Profession Council Accounts from any legal text that grants them this right, so the plaintiff asked the Federal Supreme Court to call upon the defendants, in addition to their posts, to plead and rule to prevent the third defendant's department, in addition to his post, from imposing fees on the attestation The budgets of the economic units and the return of the sums obtained by the third defendant in addition to his post, contrary to the constitution, law and order, to the payers thereof, and charging them with fees, expenses and attorney fees. The case was registered with this court in No. (128/Federal/2021), and the legal fee was collected for it in accordance with the provisions of Article (1/Third) of the bylaw of the Federal Supreme Court No. (1) of 2005, and it informs the defendants of its petition and documents in accordance with the provisions of Article (2/First) of the same bylaw, and the attorney for the first and second defendants responded with the answer list No. (30779 on 10/25/2021), which included that his client, the Prime

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Minister / in addition to his post, is not suitable as an opponent in the plaintiff's lawsuit since its subject matter is issued by the Board of Audit and Profession of Accounts and has nothing to do with it. Therefore, the litigation is not realized against his client based on the text of Article (4) of the Civil Procedure Law No. (83) of 1969 (amended), and the subject of the appeal is outside the jurisdiction of the esteemed court specified in Article (93) of the Constitution. And Article (4) of its Law No. (30) of 2005 and its bylaw, and for all of the foregoing reasons, a request for a ruling dismissing the appeal and charging the plaintiff with expenses, fees, and attorney fees. And the third defendant, following the answering regulations, numbered (423 on 10/4/2021 and 449 on 10/25/2021), responded with the following:

1. From a formal point of view, the plaintiff's lawsuit does not fall within the jurisdiction of the esteemed court specified under Article (4) of its Law No. (30) for the year 2005 as amended by Law No. (25) for the year 2021 and its bylaw, the fact that the plaintiff does not challenge a legislative text and requests its cancellation, which is what is required to accept the case before it.

2. The plaintiff has instituted the lawsuit in his capacity and not in his professional capacity, as he is a certified accountant published in the annual bulletin issued by the Council, and he has no interest in this lawsuit as he is requesting the return of the sums collected by the Council to the payers, and that these sums deducted by the Council in return for the approval of the accounts of the economic units are collected from the aforementioned units and not from the aforementioned licensed accountant, and therefore he has no interest in this case.

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3. The sums collected by the Council in return for attesting the accounts of the various economic units (Iraqi companies, Arab and foreign companies, non-governmental organizations, parties, and other economic units), are fees collected by the Council in return for examining and archiving the submitted financial statements, and indicating the validity of their issuance later upon request. This is by the beneficiary authorities and the confirmation of the validity of the seal and signature of the practitioner who audited the profession and the extent of his compliance with the accounting standards and the rules of professional conduct that must be observed during the audit, and that these services are practiced by the Council through its employees working in the secretariat of the Council are not fees as stated in the petition, and that all decisions The Council issued in this regard indicates that they are wages and no fees, the latest of which is the administrative order issued by the Council No. (557) on 11/18/2019, which included the Council's decision to increase the fees for attesting bank accounts, and therefore the plaintiff's claim that the Council charges fees for the certification of financial statements is not support it.

4. The system for practicing the profession of auditing and auditing did not specify the sources of funding and revenues for the council. Article (5/a) of the system for practicing the profession of auditing and auditing accounts No. (3) for the year 1999 (amended) stipulates that (the council approves its annual work plan that shows the aspects of His professional and administrative activities and the amounts necessary to finance them in light of the expected resources and follow-up on their implementation), without specifying the source of those resources. Therefore, the Board has to collect the

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wages it deems appropriate to achieve its desired goals. For all of the above formal and objective defenses, the plaintiff's claim has no legal basis and is obligatory to respond. Moreover, the plaintiff did not indicate in his lawsuit the immediate, direct, and influencing interest in his legal or financial position, nor did he provide evidence of the actual or direct harm that he claims has been inflicted on him and his interests, especially since the fees for certification of financial statements are ultimately paid by the economic unit that has been audited, and based on the provisions of the provisions Article (6/first, second, third, fourth and sixth) of the internal rules of the court, requesting the dismissal of the plaintiff's lawsuit in form and substance. After completing the procedures in accordance with the provisions of the aforementioned internal system, a date was set for the pleading and the two parties were informed of it in accordance with the provisions of Article (2/Second) of the aforementioned system. On the day appointed for the pleading, the court was formed, and the plaintiff and his attorneys, Abd al-Hadi Karim Kazem and Shabib Khalis Shabib attended and attended on behalf of the defendant The first and the second were their representative, the legal advisor Haider Ali Jaber, and the lawyer Falah Hassan Ismail attended as an agent for the members of the Board of Audit and Monitoring Profession in their capacity and made it clear that his presence was on their behalf in their capacity, given that the aforementioned council had no legal personality and initiated a public fundamentalist pleading. The lawsuit petition and they requested judgment according to it and presented to the court a reply list in response to what was stated in the list of the defendant's attorneys. The first and second defendant's attorney replied that he

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requested the dismissal of the lawsuit for the reasons mentioned in the reply list dated 10/25/2021. Each party's attorney repeated his previous statements and requests and where there was no remaining What is being said, I understand the conclusion of the pleading, and it was set on November 23, 2021, as the date for the issuance of the decision, in which the court was formed and issued the decision of the ruling to publicly.

The decision:

Upon auditing and deliberation from the Federal Supreme Court, it was found that the plaintiff's lawsuit included a request for a ruling to prevent the third defendant, the head of the Audit and Monitoring Profession Council, in addition to his post, from imposing fees on approving the budgets of economic units and returning the sums he obtained contrary to the constitution to their payers, and the Federal Supreme Court finds that its jurisdiction Article (93) of the Constitution of the Republic of Iraq for the year 2005 and Article (4) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021, does not include preventing the third defendant / in addition to his post from imposing Fees for approving the budgets of economic units and returning the sums received to their payers, since the third defendant, the head of the Audit and Monitoring Profession Council, in addition to his post, is not considered one of the federal authorities according to the concept contained in Article (93/Third) of the Constitution and Article (4/Third) of The law of the Federal Supreme Court referred to above, as it is required for the jurisdiction of this court to consider the dispute arising from the application of federal laws, regulations,

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instructions and procedures in accordance with the two articles referred to a. In denial that the laws, regulations, instructions, or procedures are issued by the federal authorities and not by the professional syndicates as stated in the plaintiff's lawsuit, therefore, the consideration of the requests contained in the plaintiff's lawsuit petition is outside the jurisdiction of this court specified in Articles (93) of the Constitution and (4) From the law of the Federal Supreme Court referred to above and according to the foregoing, the plaintiff's claim is free to respond to it from the competent authority, and for the foregoing, the Federal Supreme Court decided to dismiss the plaintiff's lawsuit in a form from the jurisdiction and charge him with all judicial expenses, including attorney fees for the defendants' attorneys in addition to their posts, an amount of one hundred A thousand dinars are distributed in accordance with the law and the judgment was issued definitively and in agreement based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 and Articles (4 and 5/Second) of the Federal Supreme Court Law No. (30) for the year 2005 as amended by Law No. (25) for the year 2021 and publicly understood in 17 Rabi' al-Akhir 1443 AH corresponding to 23/11/2021 AD.

Signature of
The president
Jasem Mohammad
Abbood

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