

Republic of Iraq
Federal Supreme Court
Ref. 138 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 14/8/2023 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 Plaintiff: Representative Saoud Saadoon Ali Al-Saidi – his agent, the barrister Mahdi Abdul Ridha Jassim.

The Defendants: 1- The Prime Minister of Kurdistan Region/ being in this capacity.

2- The Prime Minister/ being in this capacity – his agent, the legal counselor, Hayder Ali Jaber.

The Claim

The plaintiff, through his attorney, claimed that the first defendant, the Prime Minister of the Kurdistan Region, had previously issued his decision No. (61) on 21/6/2020, which states: (Alif Financing 79% of the financial expenses and benefits of affiliates and retirees in all ministries, authorities, and bodies not related to the ministries and all presidencies and institutions of the region). Beh. The suspension of financing 21% of the expenses and financial benefits of affiliates and retirees shall be implemented in all ministries, authorities, and bodies not associated with the ministry and all presidencies and institutions of the region. Dal. In addition to paragraphs Above only 50% of the financial benefits are paid to public servants, senior officials, members of parliament, and special ranks....), because of the violation of the

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Ref. 138 / federal /2023



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Constitution of the Republic of Iraq in 2005 contained in this resolution in articles (2/1st, 14, 16 and 47) thereof, which affirmed the inadmissibility of enacting a law that contradicts fundamental rights and freedoms, the principles of equality and equal opportunities among Iraqis, the principle of separation of powers and its violation of laws and the rights of employees, and because it usurps the parliament's authority to legislate laws, therefore, he took the initiative to challenge it before this court following Article (93/3rd) of the Constitution, requesting a ruling that it is unconstitutional. The lawsuit was registered with this court, and the legal fee was collected for it, and the defendants were informed of its petition and documents in accordance with Article (21/1st and 2nd) of the court's internal regulations No. (1) of 2022, and the second defendant's agent replied with a detailed response list according to which he requested to dismiss the lawsuit due to the court's lack of jurisdiction to try it. For the lapse of the period provided for in paragraph (3rd) of the preceding Article, a date shall be fixed for the pleading and the parties shall be notified thereof, on the appointed day, the court was formed, and the plaintiff's attorney and the second defendant's representative appeared, and neither the first defendant nor his representative appeared, despite the notification following the law, After hearing their statements, the court has made the end of the argument clear and issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff requested, through his agent, to rule on the unconstitutionality of the Kurdistan Region Council of Ministers Resolution No. (61) of 2020, which includes: Financing 79% of the financial expenses and benefits for affiliates and retirees, and the

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Ref. 138 / federal /2023



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suspension of financing 21% of the financial expenses and benefits for all affiliates and retirees is implemented, provided that only 50% of the financial benefits are paid to those in charge of public services, holders of senior positions and special ranks, the President of the Region, the Speaker of Parliament, the Prime Minister, their deputies, members of Parliament and in their ranks, undersecretaries of ministries, those in their ranks, those who receive the salary of an undersecretary, holders of special ranks, members of the Judicial Council, the Court of Execution, judges, members of the Public Prosecution, and all those who enjoy the salaries and dangers of those with ranks (Alif) and (Beh) according to the salary scale in force, on the civil and military staff, the councils, the Asayish apparatus and the Internal Security Forces, for violating the provisions of Articles (2/1st, 14, 16, 47) of the Constitution of the Republic of Iraq for the year 2005, this is due to lack of jurisdiction and bearing the fees, expenses and fees of the agent of the second defendant, the Prime Minister/ being in this capacity, the legal counselor Haider Ali Jaber, an amount of (one hundred) thousand dinars. 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 26/Muharram Al-Haram/1445 Hijri coinciding with 14/August/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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