

Republic of Iraq
Federal Supreme Court
Ref. 165 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 7/8/2023 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, Ayooob 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: Kareem Radhi Khudhair – barrister.

The Defendant: 1- The Prime Minister/ being in this capacity – his agent the legal counselor Hayder Ali Jaebr.
2- Speaker of the ICR/ being in this capacity. His agents are the legal counselor Haytham Majid Salim and the official jurist Saman Muhsin Ibraheem.
3- President of the Republic/ being in this capacity – his agent the Head of the legal experts Ghazi Ibrahim Al-Janabi.

The Claim

The plaintiff claimed that public funds are inviolable and protected is a duty of every citizen, under Article 27 of the Constitution, whereas the Budget Law for the years (2023, 2024, and 2025) No. (13) of 2023 stipulates in Article (15) thereof that: (The Minister of Finance has the authority to add allocations for the purpose of amortizing advances for previous years until 31/12/2023, which were disbursed as a result of laws in force, and after being audited by the Federal Financial Supervision Bureau and approved by the Council of Ministers that this is the last year to settle them), and that advances they are the credit facilities that are provided to natural or legal persons and are recovered within short periods and the provisions of loans apply to them, in accordance with article 684 of the Iraqi Civil Code, and their amortization means waiving and dropping them, since the Constitution

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and the laws in force do not allow any party to waive public funds, and since the above text affects one of his rights as a citizen who has a share in such funds and causes him damage and waste of public money, this court was asked to rule to cancel it and oblige the first defendant, in addition to his job, to abide by the contents of his ministerial curriculum to recover funds, stop wasting public funds, fight corruption, poverty and unemployment, and charge the defendants fees and expenses. The lawsuit was registered with this court at the number (165/federal/2023), the legal fee was collected for it, and the defendants were informed of its petition and documents, in accordance with the provisions of Article (21/1st and 2nd) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, and the defendants' agents responded according to the response regulations linked to the lawsuit papers, which included detailed formal and substantive defenses in which they concluded to request the dismissal of the lawsuit because the plaintiff did not meet the condition of interest of establishing it because he was not harmed by the article under challenge that Government advances were exclusively allocated for registration settlement without actual disbursement and under the supervision of the National Audit Office, after completing the requirements of the court's internal regulations, a date was set for the pleading in accordance with Article (21/3rd) thereof, and the parties were informed of it, and on the specified day, the court was formed, so the plaintiff and the agents of the first and third defendants attended, and the second defendant attended his agent, the human rights employee, Saman Mohsen Ibrahim, and began to conduct the public presence pleading, and after the court heard their statements and completed its scrutinies, the end of the argument has been made clear and the court issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that the plaintiff filed the lawsuit against the defendants (the Prime Minister, the Speaker of the House of Representatives, and the President of

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the Republic /being in their capacity), and his lawsuit focuses on challenging the constitutionality of Article (15) of Law No. (13) of 2023 - The Federal General Budget of the Republic of Iraq for the fiscal years (2023 – 2024 – 2025), which stipulates that: (The Minister of Finance has the authority to add allocations for amortizing advances for the previous years until 31/12/2023, which were disbursed as a result of laws in force, and after audited by the Federal Financial Supervision Bureau and approved by the Council of Ministers that this will be the last year to settle it), on the basis that this text affects one of his rights and causes him damage and waste of public fund, the Federal Supreme Court finds that the plaintiff's claim must be dismissed in form based on the provisions of Article (22) of the Court's Rules of Procedure No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, which stipulates that: ((The challenge to the constitutionality of the Federal Budget Law or any text therein shall be submitted by the authorities and bodies stipulated in Article (19) of this system, within a period not exceeding (30) thirty days from the date of its publication in the Official Gazette, and the procedures shall be applied to it. stipulated in Article (21) of this Law, and the court shall decide on the appeal within a period not exceeding thirty days from the date of its registration, unless otherwise necessary)), In terms of Article (19) thereof, which stipulates that ((any of the three federal authorities, ministries and independent bodies, the Prime Minister of the region, non-affiliated entities and governors may request the (Federal Supreme Court) to rule on the constitutionality of a legal text or regulation, ...)) the plaintiff is not one of the persons mentioned in Article (19) who have the right to challenge the constitutionality of the Federal Budget Law or any text therein, and does not represent any of them, which requires the dismissal of the plaintiff's lawsuit in form, and for the foregoing, the Federal Supreme Court decided to rule: Dismiss the plaintiff's lawsuit and charge him fees, expenses and attorney fees of the defendants' agents being in their capacity an amount of (one hundred) thousand dinars distributed among them in accordance with the law. The decision has been

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issued unanimously according to the provisions of 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 made clear on 19/Muharram Al-Haram/1445 Hijri coinciding 7/August/2023 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court

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