

Republic of Iraq
Federal Supreme Court
Ref. 170 / 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, 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: President of the Cooperative Union in Baghdad Governorate / being in this capacity - his agent, lawyer Aseel Jamal Hadi.

The Defendant: Speaker of the ICR/ being in this capacity – his agents, the legal counselor Haytham Majid Salim, and the official jurist Saman Muhsin Ibrahim.

The Claim

The plaintiff claimed through his agent that the House of Representatives issued Law No. (13) of 2023 the federal budget of the Republic of Iraq for the years (2023, 2024, 2025) and Article (20/7th) stipulated ((Cooperative societies established under the provisions of the Cooperation Law No. 15 of 1992, as amended, are prohibited from disposing of real estate owned or owned by the State, whether excreting, selling, distributing land to their affiliates or others, or disposing of it for other than the purpose for which they were owned by establishing a headquarters, otherwise the Minister of Finance shall recover them in accordance with the law with the suspension of the provisions of Article (Thirty-fourth) of the aforementioned law)), he asked for a ruling on its unconstitutionality, as this law was unfair to the rights of cooperative organizations over their various activities, and violated the Constitution, which may not be enacted a law that contradicts the principles of democracy, rights and public freedoms, and affirmed the right to work for all Iraqis, the state guarantees the right to establish trade unions and professional federations, reform the Iraqi economy, encourage and develop the private sector, and preserve public funds

saady

Republic of Iraq
Federal Supreme Court
Ref. 170 / federal /2023



Kurdish text

from waste, in articles 2 and 22 / first, third, 25 and 27 thereof, and that targeting article 34 above is contrary to the spirit of the law and delays cooperative work. The case was registered with this court in number (170/Federal/2023), and the legal fee was collected and the defendant was informed of its presentation and documents in accordance with Article (21/1st and 2nd) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022. His agent replied with an answering draft requesting the dismissal of the lawsuit, as the plaintiff is not considered a litigant in it and is not the party concerned with the objection. After completing the procedures required by the court's rules of procedure, a date was set for the pleading and the parties were informed of it, on the specified day, the court was formed, so the plaintiff's agent attended, and his agent, the human rights officer, Saman Mohsen Ibrahim, attended on behalf of the defendant, and after the court heard their statements and requests, and nothing remained to be said, 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 a lawsuit against the defendant in addition to his job to challenge the constitutionality of Article (20/7th) of Law No. (13) of 2023 of the Federal Budget of the Republic of Iraq for the fiscal years (2023-2024-2025), which stipulated that cooperative societies established under the provisions of the Cooperation Law No. 15 of 1992, as amended, are prohibited from disposing of real estate owned or owned by the state, whether it is excretion, sale, distribution of land to their affiliates, or others or dispose of it for a purpose other than the purpose for which it was owned by establishing a headquarters, otherwise, the Minister of Finance shall recover them following the law with the suspension of the provisions of Article (thirty-four) of the aforementioned law, and request a ruling on their unconstitutionality on the basis that they violate the provisions of the Constitution of the Republic of Iraq for the year 2005 in articles (2, 22 / first, third, 25 and 27) thereof, following the detail referred to in the lawsuit petition, 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

saady

Republic of Iraq
Federal Supreme Court
Ref. 170 / federal /2023



Kurdish text

2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, which stipulated 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, the procedures stipulated in Article (21) of this system shall be applied to him, and the court shall decide on the appeal within a period not exceeding thirty days from the date of its registration, unless otherwise necessary), and under Article (19) thereof, which stipulates that ((any of the three federal authorities, ministries, independent bodies, the Prime Minister of the region, entities not associated with a ministry 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 provision 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 defendant's attorneys in addition to his job an amount of one hundred thousand dinars distributed per the law. The decision has been 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 19/Muharram Al-Haram/1445 Hijri coinciding with 7/August/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

saady