

Republic of Iraq
Federal Supreme Court
Ref. 174 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 9/10/2023 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 Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Bâtonnier of the Iraqi Journalists/ being in this capacity – his agent the barrister Mohammed Majeed Rasan.

The Defendants: 1- Speaker of the ICR/ being in this capacity- his agent the official jurist Saman Muhsin Ibrahim.

2- President of the Executive Body in the Media and Communication Commission/ being in this capacity – his agent the official jurist Ali Yousef Ahmed.

3- President of the Board of Commissioners in the Media and Communication Commission/ being in this capacity.

The Claim

The plaintiff claimed through his agent that the defendant had previously issued Law No. (13) of 2023 (the Federal General Budget of the Republic of Iraq for the fiscal years 2023 – 2024 – 2025) which stipulated in Article (17/6th/Heh) of which: (The Media and Communications Commission shall register all agencies and websites of media entities operating in Iraq for fees determined by the Commission in accordance with a regulation approved by the Board of Commissioners in the Commission) and that the text of this article is contrary to what is contained in Article (6) of Law No. (56) of 2017 The Fourth Amendment Law to the amended Iraqi Journalists Syndicate Law No. (178) of 1969, which indicated that the subscriptions of journalists and media institutions are part of the Syndicate's finances, it considered working in news agencies a major profession for the trainee journalist, and when applying the text of the law - the subject of the challenge - the journalist will be obliged to pay contributions to two different parties, contrary to the text of Article (28 / first) of the Constitution, which states: (Taxes and fees are not imposed and collected and exempted from them only by law), and it is not

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permissible to suspend the work of a law in force based on a law that contradicts with the previous one on the one hand, and on the other hand, the previous budget laws did not include any text related to the subject of registering agencies and sites. Electronic media bodies at the Media and Communications Commission for a fee, since the budget law is a general law and the syndicate law is a private law, the private law restricts the public, in addition to the fact that the second defendant sent the contested text to the Council of Ministers and the Ministry of Finance without being voted on by the Board of Commissioners, contrary to the text contained in Law No. (65 of 2004 - Section Four, Article 1/Beh) states: "The Board receives and supervises the preparation of reports submitted by the Director-General, provides the Commission with guidance on strategy and budget, adopts the Code of Professional Practice, the Rules of Broadcasting, Transmission, Telecommunications, and its Regulations, finally approves the budget of the Commission and sets the rules of procedure for its operations and those of the Hearing Committee." Therefore, the prosecutor's attorney requested a ruling that Article (17/VI/e) of the Budget Law is invalid, canceled, and charged the defendants with fees, expenses, and advocacy fees. The case was registered with this court in the number (174/ Federal/2023) and the legal fee has been collected for her the defendants are informed of her petition and documents in accordance with the provisions of Article (21 / first and second) of the internal regulations of the Federal Supreme Court No. (1) of 2022, the first defendant's agent replied with the reply dated 7/8/2023 and requested the dismissal of the lawsuit due to the lack of interest condition of the appeal and the court's lack of jurisdiction to consider the conflict of the paragraph - the subject of the challenge - with the amended Journalists Syndicate Law, and it was issued following the competencies of the Council of Representatives to legislate laws based on the provisions of Article (61/ 1st) of the Constitution of the Republic of Iraq for the year 2005, and the Federal Budget Law was received by the Council of Representatives as a government project, so the plaintiff is not the concerned party to object to this or deputize himself to challenge this side, so he has no dispute in that. The second defendant's agent replied with the answering draft dated 7/8/2023 and requested the dismissal of the lawsuit because the litigation was not directed, as the contested legislation is issued by the Council of Representatives, which has the right to issue, amend and

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repeal it, and the Board of Commissioners does not have a legal personality, which is one of the administrative formations of the authority in accordance with the provisions of section Four of Legislative Order 65 of 2004, and that the legal personality is represented by the chairman of the authority (head of the executive body of the commission), who is responsible for all its operations in accordance with the provisions of paragraph (2) of The plaintiff does not have the power to challenge the Federal Budget Law or any provision therein in accordance with Article 22 of the Court's Rules of Procedure, not to mention that the condition of interest in it is not met when it is established in accordance with Article 20 of the Bylaw of the Court, the draft to be voted on by the Board of Commissioners has clearly indicated that the support of the Journalists Syndicate was obtained before registering those agencies and websites for media organizations operating in Iraq, so the role of the Commission is complementary, as is the case when the Commission issued the list of media broadcasting rules approved by the Board of Commissioners, where it was prepared with the participation of the Journalists Syndicate. After completing the procedures, a date was set for the pleading following Article (21/3rd) of the Bylaw of the Court and notified the parties, in which the Court was formed, the plaintiff and his attorney attended, and the first and second defendants' attorneys attended, and began to conduct the public presence pleading, and after the court heard their statements and requests and completed its audits, the end of the argument has been made clear and the court issued its following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that the plaintiff (head of the Iraqi Journalists Syndicate / being in this capacity) filed the lawsuit against the defendants (the Speaker of the Council of Representatives, the Head of the Executive Body in the Media and Communications Commission and the Chairman of the Board of Commissioners in the Media and Communications Commission/ being in their capacity) to challenge the constitutionality of Article (17/6th/Heh) from Law No. (13) of 2023 of the Federal General Budget of the Republic of Iraq for the fiscal years (2023 – 2024 – 2025), which stipulates that: (The Media and Communications Commission shall register

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all agencies and websites of media entities operating in Iraq for fees determined by the Commission following a regulation approved by the Board of Commissioners in the Commission) and request a ruling that it is invalid for the reasons stated 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 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, it 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) are applied to it from this system, the court must decide on the appeal within a period not exceeding thirty days from the date of its registration unless it is necessary to otherwise)), and in the event of Article (19) of it, which stipulates that ((for any of the three federal authorities, ministries, independent bodies, and prime minister The region and the entities not related to the Ministry and the Conservatives request from (the Federal Supreme Court) to decide the constitutionality of a legal text or a system, ...)), because the plaintiff is not one of the persons mentioned in Article (19) who is entitled to challenge the constitutionality of the federal budget law or any text in it and does not represent any of them, the matter requires dismissing the plaintiff's lawsuit in form. Based on the above, the Federal Supreme Court decided to rule: dismissing the plaintiff's lawsuit and charging him the fees, expenses, and attorney fees of the two defendants' agents/ being in their capacity, an amount of one hundred thousand dinars to be distributed in accordance with 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 23/Rabea Al-Awal/1445 Hijri coinciding with 9/October/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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