

Republic of Iraq
Federal Supreme Court
Ref. 175 / 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: Chairman of the Committee supervising the work of the General Union for Cooperation/ being in this capacity.

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 defendant approved the Federal Budget Law for the years (2023, 2024, and 2025) published in the Iraqi Gazette No. (4726) on 26/6/2023, which included the inclusion of a number of articles that were not included in the draft law submitted by the government to the Council of Representatives or its amendment, and that this law was unfair to the rights of cooperative organizations over their various activities, whereas article 20/7th thereof stipulates ((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 disposing of it for a purpose other than the purpose for which it was owned by establishing a headquarters for them, 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)) which violates the Constitution in articles (23/2nd , 25 and 27 thereof, which did not allow expropriation except for the purposes of public benefit and in return for fair compensation, and obligated the state to ensure the right to reform the Iraqi

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economy, encourage and develop the private sector, and the sanctity of public funds and preserve them from waste, targeting Article 34 of the Cooperation Law is contrary to the spirit of the law and delays cooperative work, so the court was asked to rule unconstitutional and invalidate Article 20/7th of the aforementioned law. The lawsuit was registered with this court at number (175/Federal/2023), the legal fee was collected and the defendant was informed of its petition and documents in accordance with Article (21/1st and 2nd) of the internal regulations of the Federal Supreme Court No. (1) of 2022, and the defendant's agent responded with the reply regulation dated 2/8/2023 and requested the dismissal of the lawsuit, as the plaintiff is not considered a litigant in it and not the party concerned with the objection. After completing the procedures required by the rules of procedure of the court, a date was set for the pleading and the parties were informed of it, on the specified day, the court was formed, the plaintiff attended, and his agent, the official jurist, Saman Mohsen Ibrahim, attended on behalf of the defendant, and after the court heard their statements, and there was nothing left to say, the end of the argument, 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 defendant, the Speaker of the Council of Representatives, in addition to his job to challenge the constitutionality of Article (20/7th) of Law No. (13) of 2023 of the Federal General 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 employees or others, or disposing of it for a purpose other than the purpose for which it was owned by establishing a headquarters for it, otherwise the Minister of Finance shall recover it following the law with the suspension of the provisions of Article (Thirty-fourth) of the aforementioned law)), based on its violation of the provisions of the Constitution of the Republic of Iraq of 2005 in Articles (23/2nd, 25 and 27) thereof, and 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.

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(1) of 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, during 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 Law 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 following 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 following 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

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