

Republic of Iraq
Federal Supreme Court
Ref. 21/ federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 26/3/2023 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 Travel and Tourism Companies Association/ being in this capacity – his agent the barrister Ahmed Abdul Sattar Khalaf.

The Defendant: 1- Minister of Tourism and Antiquity/ being in this capacity – his agent the official jurist Jwan Hussein Akbar.
2- Head of Tourism Authority/ being in this capacity – his agent the senior legal counselor Abeer Yousef Mubarak.

The Claim

The plaintiff claimed, through his agent, that the department of the first and second defendants considered travel and tourism companies and their agencies as tourist facilities based on the Tourism Authority Law No. (14) of 1996 and based on that it collects the amounts from them according to what is stated in Article (9/8th) of the same law, and since the tourist facilities have been limited by the law to only nine (restaurants, hotels, tourist apartments, amusement shops, tourist cafes and cinemas, concert halls, and event halls, wholesale and retail shops

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selling alcoholic beverages, amusement parks, camps Travel and tourism companies are legal persons with their entity, as they were registered and established under a special law, which is the Companies Registration Law, therefore, the plaintiff requested this court to oblige the defendants not to consider travel and tourism companies and their agencies as a tourist facility and to charge them fees, expenses and advocacy fees. The lawsuit was registered with this court No. (21/Federal/2023), and the legal fee was collected for it based on Article (21/First) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, and it informs the defendants of its petition and documents based on item (2nd) of the same article, and the agent of the first defendant responded with the response list dated 23/2/2023, according to which she requested the dismissal of the lawsuit and the plaintiff's charges and expenses for not directing the litigation, as it relates to the Tourism Authority, which enjoys legal personality and independence Financial and administrative under Article (1/2nd) of the Tourism Authority Law No. (14) of 1996. The agent of the second defendant replied with the reply list dated 19/2/2023, according to which she requested the dismissal of the lawsuit and the plaintiff to charge the fees and expenses, as it has no basis in law because the plaintiff's request, which was based on Article (9/8th) of the Tourism Authority Law, contradicts what is stipulated in this article, which entrusted the Chairman of the Authority with many tasks and powers, including what was stated in paragraph (8th), which stipulated (granting a license to establish tourist facilities such as restaurants, hotels, apartments, tourist houses, travel, and tourism offices and agencies...), also the article (12/2nd) of the same law stipulates that "for this law, a tourist facility means restaurants, hotels, apartments, tourist houses, travel and tourism companies, offices and agencies..." The Authority is the supervising

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body of the company's activity and has nothing to do with the law under which the company was established. After completing the procedures required by the rules of procedure of the court, a date was set to consider the case without pleading following Article (21/3rd) of the rules of procedure of the court, in which the court was formed and the hearing of the case began, the court checked what was stated in the plaintiff's petition, his grounds and requests, and what was stated in the response lists submitted by the agent of the first defendant and the agent of the second defendant, according to which they requested the dismissal of the case for the reasons stated therein, and after the court completed its scrutinies, the end of the minutes has been made clear and the court 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 oblige the defendants not to consider travel and tourism companies and their agencies as tourist facilities and to burden them with fees, expenses, and advocacy fees. This court finds that its competencies and powers have been mentioned in Articles (52/2nd) and (93) of the Constitution of the Republic of Iraq for the year 2005, as well as Article (4) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, not including what is stated in the plaintiff's lawsuit petition requests, so his claim must be dismissed for lack of jurisdiction. Accordingly, the court decided to reject the plaintiff's lawsuit, the head of the Association of Travel and Tourism Companies, being in this capacity, and to charge him the fees, expenses, and fees of the defendants' agents, an amount of (one hundred thousand) dinars, to be

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distributed equally between them. 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 4/Ramadhan/1444 Hijri coinciding with 26/March/2023 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court

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