

In the name of God most Gracious most Merciful

Republic of Iraq
Federal supreme court
Ref. 30/federal/2021



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 13.7.2021 headed by Judge Jasem Mohammad Abbod and the membership of the judges Sameer Abbas Mohammed, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, Diyar Muhammad, and Khaled Taha Ahmed Ali who are authorized to judge in the name of the people, they made the following decision:

The Plaintiff: President of the Iraqi Contractors Union/ being in his capacity, his attorney, Salah Hanoun Aliwi.

The Defendant: Speaker of the Iraqi Council of Representatives / being in his capacity his deputy, legal advisor, Haitham Majed Salem, and jurist Saman Mohsen Ibrahim

The Claim:

The plaintiff's attorney/ being in his capacity claimed that the defendant/ being in his capacity had previously issued Law No. (23) of 2021 ((Federal General Budget of the Republic of Iraq for the fiscal year 2021)) which stipulated in Paragraph (1st/4/dal-2) of Article (2) From it on ((The governors and the head of the Reconstruction Fund shall authorize the liberated and affected cities from terrorist operations the validity of direct contracting up to (5) billion dinars for one project, as an exception to the contracting methods stipulated in the instructions for

implementing government contracts No. (2) of 2014)). Expanding this exception and this amount is a violation of the instructions and the law of government contracts, which would increase the personal powers of the governors and the head of the Fund for the Reconstruction of Liberated Cities Affected by Terrorist Operations. After registering the case in No. (30/federal/2021) based on Article (1/3rd) of the FSC's bylaw No. (1) of 2005 and informing the defendant/ being in his capacity based on Article (2/1st) of the aforementioned bylaw, he answered The defendant's attorneys/ being in his capacity in their draft dated 11/5/2021 that the plaintiff's attorney/ being in his capacity did not indicate the current, direct and influencing interest in his legal, financial or social position and did not provide evidence that real, direct and independent damage to his elements had been inflicted on him based on the text of Article (6/ 1st, 2nd, 3rd, 4th and 6th) of the rules of procedure of this court, and the prosecutor's representative/ being in his capacity requests a ruling to amend the text subject of the case and that this is outside the jurisdiction of the FSC based on the provisions of Article (93) of the Constitution, the plaintiff's attorney/ being in his capacity in his regulations dated on 16/06/2021 on the draft of the defendant's attorney/ being in his capacity, stated that he is responding to the defendant's attorney's claim that his client has no immediate, direct and influential interest that Article (6) of the Civil Procedures Law No. (83) of the amended year 1969 stipulated that the potential interest is sufficient if there is reason to fear harm to those concerned, and it is permissible to claim a deferred right, as his client represents all contractors in Iraq, and he has the right to claim in their interest, and that expanding the cover for direct referral of contracting is five billion and given to the governors or the head of the reconstruction fund would deprive contractors of entering into a large number of tenders and contracting works according to the legal regulations, and it was stated in a decision of the Court of Cassation No. (954) for the year 2006 (The litigation in the lawsuit is directed to the natural or legal person) and

from the concept of the violation, the ordinary person, the president of the Contractors Union, has the right to direct the litigation, and since the damage, despite its possibility, is directed to all contractors, and their union has the right to demand the cancellation of the unfair text against them in the budget law. It is outside the jurisdiction of the FSC, as evidenced by the issuance of many decisions that dealt with legislation in violation of the constitution, with the court's extensive control over the legislation, and after completing the procedures for considering the case based on Article (2/2nd) of the bylaw No. (1) of 2005, a date was set for the pleading, and on the appointed date the court was formed, so the plaintiff's agent attended/ being in his capacity, and the defendant's agent attended/ being in his capacity, and the public pleading commenced, where the plaintiff's attorney repeated his requests and added that giving the right to the governor and the head of the reconstruction fund the validity of direct contracting up to (5 billion dinars)) for a single project, as an exception to the contracting methods stipulated in the instructions for implementing government contracts No. (2) of 2014, which means that a small group of contractors benefit without the rest of the contractors, as the authority was limited to two hundred and fifty million Iraqi dinars, and the aforementioned article is in violation of the principle of equal opportunities, which is granted equally For everyone. As for the defendant's attorneys/ being in his capacity they requested that the case be rejected for the reasons stated in their previously submitted draft, and since there is nothing left to say with both parties, the end of pleading has been made clearly, and the court issued the following judgment decision:

The Decision:

After scrutiny and deliberation it was noted that the suit of the plaintiff, the head of the Iraqi Contractors Union/ being in his capacity, focused on what was stated in the text of Paragraph (1st/4/dal_2) of Article (2) of Law No. (23) of 2021 (the Federal General Budget Law of the Republic of Iraq for the fiscal year 2021), which It stipulated (entitles the governors and the head of the Reconstruction Fund for Liberated Cities Affected by Terrorist Operations, the validity of direct contracting up to (5 billion dinars) for a single project, as an exception to the contracting methods stipulated in the instructions for implementing government contracts No. (2) of 2014), claiming that the expansion of this exception and this amount It is a violation of the instructions for implementing government contracts, which would increase the personal powers of the governors and the head of the Reconstruction Fund for Areas Affected by Terrorist Operations, and this violation opens the way for financial and administrative corruption. Therefore, the text of this article was challenged, asking to amend the text and determine the validity of the authorization for the minimum amount for the aforementioned reasons and the reasons he mentioned in detail in the aforementioned submitted regulations. As for the defendant's attorney / being in his capacity, they requested that the case be dismissed for lack of jurisdiction of the FSC and according to the reasons referred to in the answer draft Submitted on 11/5/2021. By examining the requests and pleas of the two parties' attorneys, this court finds that the jurisdiction of this court is specified under Article (93) of the Constitution of the Republic of Iraq for the year 2005, and there is nothing among them that was mentioned by the prosecutor's agent/ being in his capacity in his lawsuit, which is a request to amend a text Article (2/1st/ 4 / dal -2) of Law No. (23) of 2021 because legislation and amendment of laws is the authority granted by the constitution to the Council of Representatives based on Article (61 /1st) of the aforementioned constitution. When all of

the above and the request were submitted, the court decided, and due to its lack of jurisdiction to consider the case, rejected the claim of the plaintiff, the head of the Iraqi Contractors Union/ being in his capacity and charging him with fees and judicial expenses and attorney fees for the defendant's attorney/ being in his capacity an amount of (100,000) one hundred thousand dinars distributed according to the law Based on Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 and Articles (4 and 5) of the FSC Law No. (30) of 2005 as amended by Law No. (25) for the year 2021 and the decision had made clear public on 2/ Dhu al-Hijjah /1442 coinciding with 13/ July /2021.

Signature of
The president
**Jasem Mohammad
Abod**

Signature of
The member
**Sameer Abbas
Mohammed**

Signature of
The member
Haidar Jaber Abed

Signature of
The member
Haider Ali Noory

Signature of
The member
Khalaf Ahmad Rajab

Signature of
The member
Ayoub Abbas Salih

Signature of
The member
**Abdul Rahman
Suleiman Ali**

Signature of
The member
**Diyar Muhammad
Ali**

Signature of
The member
Khaled Taha Ahmed