

Republic of Iraq  
Federal Supreme Court  
Ref. 311 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 22/1/2024 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: Mohammed Mousa Mohammed/ member of the Board of Commissioners in the Media and Telecommunication Commission- his agent the barrister Hurr Abdulla Jassim.

The Defendant: Director-General of the Legal Department in the General Secretariat of the Cabinet/ being in this capacity – his agent, the legal counselor Qassim Suhaib Shakour.

### **The Claim**

The plaintiff, through his agent, claimed that the court had previously issued its decision No. (48/Federal/2021) on 6/6/2021, in which it confirmed its authority to interpret the provisions of the laws in light of the specific competencies in the Constitution, and the amended Court Law No. 30 of 2005, in which it clarified the basic points and conditions for the parties requesting interpretation, as it stressed that the bodies associated with a ministry or not associated with a ministry or individuals do not request the interpretation of a legal text, and that Article (6) of the amended State Council Law, which indicated its competence in issuing fatwas, expressing opinions and clarifying legal provisions, does not deprive the authority of the judiciary and its

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authority to interpret the provisions of the law, nor does it prevent the Federal Supreme Court and its competences in interpretation, whether With regard to the provisions of the Constitution or the laws in force, however, the Director General of the Legal Department in the General Secretariat of the Council of Ministers has violated the aforementioned court decision through the letter of the Legal Department No. (Qaf/2/5/90/24470) on 22/11/2021, which caused confusion in the work of the Media and Communications Commission and its constitutional link, so the plaintiff asked this court to oblige the defendant to cancel his aforementioned book. After registering the case with this court No. (311/Federal/2023), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1<sup>st</sup> and 2<sup>nd</sup>) of the Court's Rules of Procedure No. (1) of 2022, the agent of (Prime Minister / being in this capacity) responded to the answering draft dated 24/12/2023, he requested the dismissal of the lawsuit for not directing the litigation against the Director General of the Legal Department in the General Secretariat of the Council of Ministers / in addition to his job, because he did not have a legal personality in accordance with the provisions of the law, and that what the plaintiff requested is outside the jurisdiction of the court under Article (93) of the Constitution and Article (4) of its Law No. (30) of 2005, as amended. After completing the procedures required by the Court's Rules of Procedure, a date was set for the consideration of the case without pleading based on Article (21/3<sup>rd</sup>) thereof, in which the court was formed and began to consider the case, the court checked the plaintiff's requests, his grounds and the defenses submitted by the agent of the Prime Minister / being in this capacity, and after completing its scrutinies, the end of the minutes has been made clear and the court issued the following decision:

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### **The decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff's lawsuit included a request for a ruling obliging the defendant, in addition to his job, to cancel the letter issued by him in the number (Qaf/2/5/90/00024470 on 22/11/2021), which includes (that the Director General is the head of the executive body of the Iraqi Commission for Communications and Media he is the head of the entity not associated with a ministry and is responsible for the operations carried out by the aforementioned Commission (including the preparation and submission of the budget of the Commission with the exception of operations allocated to the Board of Commissioners) for the reasons mentioned in his petition, the competences of this court are defined by articles 52 and 93 of the Constitution of the Republic of Iraq of 2005 and article 4 of the Federal Supreme Court Law No. 30 of 2005, as amended. Therefore, the Federal Supreme Court decided to dismiss the lawsuit of the plaintiff Mohamed Moussa Mohamed and to charge him all judicial fees and expenses, including the advocacy fees of the defendant's agent, an amount of one hundred thousand dinars 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 5/2<sup>nd</sup>) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited on the session dated 10/Rajab/1445 Hijri coinciding 22/January/2023 AD.

**Judge**

**Jassim Mohammed Abbood**

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**President of the Federal Supreme Court**