

Republic of Iraq
Federal Supreme Court
Ref. 47 / Federal / 2021



Kurdish text

The Federal Supreme Court (F.S.C.) convened on 28.7.2021 headed by Judge Jasem Mohammad Abboud and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

The plaintiff:

Ahmed Adham Qaddouri - his attorney, Muhammad Hassan Ali Al-Taei.

The defendant:

The Speaker of the Iraqi Council of Representatives (I.C.R.)/ in addition to his post – his agents the legal advisor Haithem Majid Salim and the legal official Saman Muhsen Ebraheem.

The claim:

In the lawsuit petition, the plaintiff agent claimed that his client had previously been sentenced on 3/25/2013 in the criminal case numbered (174/Jim 3/2013), which included a sentence of imprisonment for five years and one month in accordance with the third-order/section six /(2/b) for the year (2003) issued by the dissolved coalition authority, his client spent his sentence in Badoush prison and was released. The aforementioned decision was repealed

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by the Federal Court of Cassation's decision No. (7840 / Penal Commission / 2013), the issuance of the effective Iraqi weapons law No. 51 of 2017 which canceled the Weapons Law No. (13) of 1992 and the memorandum of the dissolved coalition authority, the third order of 2003, according to which his client was sentenced, so he requested the application of the law that is best for the accused, which is Law No. 51 of 2017, the Iraqi Weapons law in force, and it also challenged the constitutionality of the third order issued by the dissolved coalition authority, in addition to his request above, based on the provisions of Article (1/Third) of the Federal Supreme Court's internal system No. 1 of 2005, the case was registered with this court in No. (47/Federal/2021), the defendant, in addition to his post was informed of its petition based on the provisions of Article (2/ first) from the bylaw above, the defendant's attorney, in addition to his post, responded with his draft submitted to this court on 6/8/2021, which included a request to dismiss the case, because the plaintiff requests to implement the Law No. 51 of 2017 (the Iraqi Weapons Law in force) on his client's lawsuit is out of the jurisdiction of the Federal Supreme Court that it considers the constitutionality of the laws in force and not their application, and this is what is stated in Article (93/First) of the Constitution, just as the challenge to the constitutionality of the third order of the dissolved Coalition Authority has no basis in the law and that this is a legislative option as Article (130) of the constitution stipulates the following: (The legislation in force shall remain in force unless it is repealed or

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amended in accordance with the provisions of this constitution). for these reasons he requested to dismiss the lawsuit and to burden the plaintiff the expenses and fees, on the day appointed for argument the Court was formed, the defendant, in addition to his post and his attorneys, legal counsel Haitham Majed Salem and the legal employee with the rank of director Saman Mohsen Ibrahim and started the public pleading, repeated his statements and requests, and since there is nothing left to be said, the court understood the conclusion of the pleading and issued its next decision in public.

The decision:

Upon examination and deliberation by the Federal Supreme Court, it was found that the plaintiff requested the application of Law No. (51) of 2017 (the Iraqi Weapons Law in force) on his client's lawsuit, which was repealed by the Federal Court of Cassation with its decision issued in No. (7840 / Criminal Commission / 2013), which had already been sentenced for five years and one month in accordance with (section six/2/b) of Order No. (3) issued by the Coalition Provisional Authority, as it is the best law for the accused and that this does not fall within the jurisdiction of the Federal Supreme Court mentioned in Article (93) of the Constitution of the Republic of Iraq issued in 2005 and Article (4) of its Law No. (30) of 2005 amended by Law No. (25) of 2021. Therefore, the Federal Supreme Court decided to reject the case and charge the plaintiff the fees, expenses, and attorney fees for the defendant's attorney, in addition to his post. legal advisor Haitham Majed Salem and the legal employee Saman Mohsen Ibrahim, an amount of one hundred

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thousand dinars, distributed between them in accordance with the law. The decisions were issued final in agreement according to the provisions of articles (93 and 94) of the Constitution of 2005, and articles (4) and (5) of the Federal Supreme Court Law No. (30) for the year 2005 amended by Law No. (25) for the year 2021 and publicly understood on the 18th of Dhul-Hijjah / 1442 AH corresponding to 7/28/2021 AD.

Signature of
The president

**Jasem Mohammad
Abbood**

Signature of
The member

**Sameer Abbas
Mohammed**

Signature of
The member

Ghaleb Amer Shnain

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

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