

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 52/federal/2019



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 31/7/2019 headed by the Judge Madhat Al-Mahmood and the membership of the Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Warid Najim Abd Allah- his agent the attorney Mustafa Khamis Dawood.

The Defendant: The speaker of the parliament/ being in this post - his agents the legal officials the director Salim Taha Yasein and the legal advisor Haytham Majid Salim.

The Claim

The agent of the Plaintiff claimed that the defendant/ being in this post has already issued the General Budget law No.(1) for 2019, article (24) of it stipulate that (federal ministries, entities not affiliated with a ministry and the governorates are committed to purchasing their needs from the products of the federal ministries... etc.) without purchasing these products from the various sectors violating by that the constitutional principal of the articles (25, 26)

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of the Iraqi constitution which ensure encourage investment in various sectors, it was supposed to implement the text of article (24) of the budget law upon all the local products throw inclusion the purchase of these products from the mixed and privet sectors to achieve equal opportunities, and to encourage investments, note that the products of the mixed and privet sectors has the essential role to meet the needs of all federal ministries and its factories before and after 2003. For all that the agent of the plaintiff requested to: (judge by the unconstitutionality of article (24) of the budget law No.(1) for 2019, and its invalidity for violating the basic principal of the Iraqi constitution). The agents of the defendant (the speaker of the I.C.R./ being in this post) has respond to the case petition with the following:

1. the agent of the plaintiff didn't clear the current, direct and effective interest in the legal, financial or social position of his client in his case, he has not establish or show the actual direct damage independent by its elements upon removal if a judgment is issued in this case, as stated in article (6/1st) of the F.S.C. Bylaw No.(1) for 2005.
2. the jurisdictions of the I.C.R. in enacting the laws is stipulated in article (61/1st) of the constitution, whereas the text (under challenge) was set as legislative option consistent with the (related) laws of protect and support the Iraqi national products and government programs in this regard, as well as national development plans and annual budget targets announced by the government, the text (under challenge) does not consider as violation to the constitutional texts.

For all that the agents of the defendant requested to reject the case. After the case was registered according to paragraph (3rd) of article (1) of the F.S.C. Bylaw No.(1) for 2005, and completing the required procedure according to paragraph (2nd) of article (2) of the mentioned bylaw, the date 31/7/2017 was set to proceed with the argument, the court convened and the agent of the plaintiff and the agents of the defendant has attended, and continue with the argument in presence and publicly, the agent of the plaintiff repeated what listed in the case petition and requested to judge according to it, the agents of the defendant repeated the answering draft and requested to reject the case, the agent of the plaintiff commented requiring to amend article (24) of the general budget law No.(1) for 2019 so that would leads to repeal this article because it does not equal the public and private sector and disturb the principle of economic reform, the agents of the defendant stated that "we don't have comment on the plaintiff's agent statement". The court scrutinized the case petition and found that its judgment reasons are completed so the argument has closed and issued the following decision.

The Decision

During scrutiny and deliberation by the F.S.C., the court found that the plaintiff agent has challenged article (24) of the federal budget law No.(1) for 2019 which bind the federal ministries, entities not affiliated with a ministry and the governorates to purchase their needs from the products of the federal ministries without purchasing it from the various sectors, and that violate the articles (25, 26) of the constitution which ensure encourage investment in various

sectors (mixed and privet) which has the essential role to meet the needs of all federal ministries and its factories before and after 2003. For all that the agent of the plaintiff requested to judge by the unconstitutionality of article (24) of the budget law No.(1) for 2019, and its invalidity for violating the basic principal of constitution. The F.S.C. found that the implement of (the challenged) article (24) of the budget law No.(1) for 2019, does not only mean that the ministries and other federal bodies purchasing their needs from the public sector, and no other sectors, and that is an legislated option for the legislator according to its stipulated jurisdictions in article (61/1st) of the constitution, and it doesn't violate the constitution in the mentioned articles. As there are other ways to encourage national industry in these sectors. Accordingly the F.S.C. decided to reject the case and to burden the plaintiff the expenses and advocacy fees for the agents of the defendant amount of one hundred thousand Iraqi dinars. The decision has been issued decisively and unanimously according to the provisions of article (94) of the constitution, and article (5/2nd) of the F.S.C. law No.(30) for 2005, and issued publicly on 31/7/2019.