

Republic of Iraq
Federal Supreme Court
Ref. 53 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 8/5/2023 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, Ayooob 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: Director-General of the Agricultural Cooperative Bank/ being in this capacity – his agent the official jurist Amal Riyadh Hassoun.

The Defendant: Speaker of the ICR/ being in this capacity – his agents the legal counselor Haytham Majid Salim and the official jurist Saman Muhsin Ibrahim.

The Claim

The plaintiff claimed through his agent that the defendant issued the Emergency Support Law for Food Security and Development No. (2) of 2022, article (13/1st) of which stipulates: (The payment of government debts owed by farmers and farmers wishing to postpone the repayment of loans and whose loans do not exceed (400,000,000) four hundred million dinars from the loans of the Agricultural Bank and the Agricultural Initiative throughout the governorates of Iraq shall be postponed for a period of two years, and these debts shall not be charged any interest during the postponement period), and whereas this article Agricultural loans granted by the Agricultural Bank included within its own resources, which are originally representing the public's deposits in current, savings and fixed deposits, as the Agricultural Bank attracts these deposits in exchange for an interest rate to depositors and re-employs them at a higher interest rate, which harmed the bank, represented by the non-fulfillment of financial obligations to customers with bank accounts in the event of withdrawal of those deposits due to the scarcity of liquidity resulting from the postponement and the suspension of collection procedures, as well as the loss of bank interest for loans granted

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during the postponement period in exchange for the bank granting interest to bank account holders, thus, losses were achieved due to the increase in expenses without achieving the revenues represented by the interest that must be collected from the loans granted, noting that the previous postponement decisions under the previous federal budgets did not address the inclusion of agricultural loans financed from the bank's own resources in the postponement paragraphs and according to the Federal Budget Law for the year 2019 and 2021. Whereas the Agricultural Bank is one of the self-financing entities, therefore, the plaintiff asked this court to amend paragraph (1st) of Article (13) of the Emergency Support Law for Food Security and Development No. (2) of 2022 not to include the loans of the Agricultural Bank granted from its own resources as they are financed from public deposits and to charge the defendant fees and expenses. The lawsuit was registered with this court No. (53/Federal/2023), and the legal fee was collected based on Article (21/1st) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, and the defendant shall be informed of its petition and documents in accordance with the provisions of item (2nd) of the same article, his agents replied with the answering draft dated 28/3/2023, according to which they requested to dismiss the case, as its consideration is outside the jurisdiction of the Federal Supreme Court, and after completing the procedures stipulated in the aforementioned rules of procedure of the court, he set a date for considering the case without pleading in accordance with Article (21/3rd) thereof, and on the appointed day, the court was formed and the case began to be heard, the court reviewed the plaintiff's claim, his claims and supports, as well as the list of the defendant's attorneys and their request to dismiss the case for the reasons stated therein,

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff's appeal (the Director General of the Agricultural Cooperative Bank / being in this capacity) focuses on challenging Article

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(13/1st) of the Emergency Support Law for Food Security and Development No. (2) of 2022 for the reasons, merits and legal grounds referred to in the preamble of this decision, and the plaintiff requests, in addition to his job, to issue a judgment amending paragraph (1st) of the aforementioned Article (13) so that it does not include the loans of the Agricultural Bank granted from its own resources as they are financed by Public Deposits, upon further consideration of the said application, the Court finds that its consideration is outside the jurisdiction of this Court, as the jurisdiction of this Court is defined and contained in 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, the court's jurisdiction under paragraph (1st) of Article (93) of the Constitution is limited to ruling on the unconstitutionality of the laws and regulations in force if there is a constitutional requirement, and since the plaintiff, in addition to his job, did not request a ruling of unconstitutionality, but rather a request to rule to amend a legal text, and therefore its consideration is outside the jurisdiction of this court, and for all of the above, the court decided to dismiss the plaintiff's lawsuit (the general manager of the Agricultural Cooperative Bank / being in this capacity) and charge him expenses, fees and fees Lawyer for the defendant's agents, in addition to his job, an amount of (one hundred thousand) dinars distributed in accordance with the law. 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 17/Shawwal/1444 Hijri coinciding with 8/May/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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