

Republic of Iraq
Federal Supreme Court
Ref. 8 / federal / 2020



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 1.6.2021 headed by Judge Jasem Mohammad Abbood and the membership of the judges Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, Diyar Muhammad Ali and Monther Ebraheem Husain who are authorized to judge in the name of the people, they made the following decision:

The Plaintiffs:

1. Sarmed Abd Alelah Muhemed / in addition to his post – his agent the attorney Alaa Shon Hussain.
2. Watheq Kadhem Mandel – his agent the attorney Alaa Shon.

The Defendant:

The Prime Minister /in addition to his post, his agent the legal advisor Haider Ali Jaber.

First: the claim:

The plaintiffs claimed that: ((the defendant has issued the decision No. (140) of 2019 that included (the formation of a committee to set controls and mechanisms for disbursing the grant allocated to the Iraqi Olympic Committee in the budget law for the fiscal year 2019 until the legislation of the Iraqi National Olympic Committee law), the formed committee by that decision after its issuance on 16.4.2019 has managed, disbursed and distributed the financial grant allocated to the Olympic Committee in the Federal

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 8 / federal / 2020



Kurdish text

General Budget Law of 2019. The Minister of Youth and Sports based his request to the Council of Ministers to form the above committee on the decision issued by the Federal Supreme Court that included considering the Iraqi Olympic Committee as one of the dissolved entities, and due to the unconstitutionality of the measures taken by the federal authority and their violation of the article (62) of the constitution, by continuing the work of the committee formed under the decision and received the grant allocated to the Iraqi National Olympic Committee and disposed of it after the issuance of the Iraqi National Olympic Committee Law No.(29) and the published it in the Iraqi Gazette, the issue No.(4566), so we took the initiative to challenge it)), the case petition also included that (the first plaintiff was harmed because the Iraqi Swimming Federation did not receive the financial grant allocated to it by the Olympic Committee for the year 2019 after the formation of the aforementioned decision' committee), and (the second plaintiff was also harmed because the committee formed under the decision No.(140) of 2019 deducted a monthly amount equivalent to half of his monthly salary that he was receiving from the Iraqi National Olympic Committee under an administrative order issued with the approval of the President of the Olympic Committee specifying the amount of his salary based on the powers entrusted to him under the law in force at the time), the case petition enclosed with the request included (to rule to obligating the defendant in addition to his post to stop the work of the committee formed according to his decision, and

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 8 / federal / 2020



Kurdish text

pay the dues of the Iraqi National Olympic Committee monthly based on (1/12) of its grant allocated in the federal general budget for the fiscal year 2019 in its approved account with the government bank until the upcoming budget law is enacted, and the unconstitutionality of the exchange for the account of any party other than the account of the Iraqi National Olympic Committee, which enjoys legal personality and administrative and financial independence in its management of the Olympic movement in Iraq), according to the details and reasons listed in the case petition. Under the provision of article (1/3rd) of the F.S.C. Bylaw No.(1) of 2005, the case petition has been registered and its legal fee has been collected under the No.(8/federal/2020), under the provision of article (2/1st) of the mentioned Bylaw, the defendant in addition to his post was informed with the case petition, his agent responded with the answering draft dated on 2.2.2020 stating that challenging the constitutionality of the decision No.(140) of 2019 is out of the Federal Supreme Court jurisdiction, and that it was issued according to the constitutional authorities granted to the defendant in addition to his post in the articles (47 and 80/1st) of the Constitution, in addition, the subject of challenge of the plaintiffs lawsuit was eliminated by the issuance the Iraqi National Olympic Committee Law No.(29) of 2019, also the condition for accepting the lawsuit is not achieved for the lack of the plaintiffs interest in their lawsuit, on the base of that he requested to dismiss the lawsuit. The plaintiffs were notified by the answering draft of the defendant in addition to

Athraa



his post, after completing the required procedures in the article (2/1st) of the mentioned bylaw, the date 5.5.2021 was appointed for the argument, the court convened and due to not informing the second plaintiff the argument postponed to 1.6.2021, the court convened and call upon the parties, the plaintiffs or their agent didn't attend despite the information through their agent according to the Email sent by him to this court, the agent of the defendant has attended and started in presence public session. The agent of the defendant in addition to his post repeated his previous statements and requests. The court decided to close the argument, the following decision was issued publicly.

Second: the decision:

During scrutiny and deliberation by the F.S.C., it found that lawsuit No. (8/federal/2020) was filed before this court by the first plaintiff Sarmed Abd Alelah Muhemed / in addition to his post and the second plaintiff Watheq Kadhem Mandel by their agent the attorney Alaa Shon on 14.1.2020 against the defendant the Prime Minister in addition to his post to challenge the constitutionality of the decision No. (140) of 2019 and its procedures for the reasons listed in details. According to the provisions of the article (19) of the Bylaw of workflow procedures in the federal supreme court, which stipulates that (the provisions of the Civil Procedures Law No.(83) of 1969 and the Evidence Law No.(107) of 1979 shall be applied in cases where there is no special provision in the F.S.C. Law and this

Athraa



Bylaw), as article (44) of the amended Civil Procedures Law No.(83) of 1969 obligates initiating every lawsuit by petition under paragraph (1) of it, also paragraph (5) of the same article stated (if there are several plaintiffs, and their claim is a link or association, they may file a suit with one petition), due to the lack of association and link between the plaintiffs in the lawsuit, due to the fact that it was instituted by the first plaintiff/ in addition to his post and the second plaintiff in his personal capacity, and for the failure of the plaintiffs' attorney to appear before this court in order to inquire of him about the reason for filing the lawsuit by them with one petition despite their different capacities and the absence of link or association between them and their requests contained in the lawsuit petition, which made it impossible to assign him to limit the lawsuit of his clients to one of the plaintiffs, although he was notified and did not appear at the session dated on 1.6.2021. as the provisions listed in the Civil Procedures Law are implemented on the constitutional lawsuits in accordance with its nature and specification and the types of the measures taken in it. The issued decision is final and binding on all authorities and doesn't submit to challenge in any method of the challenged method stipulated in the mentioned procedures law, according to the provision of the article (94) of the Constitution of 2005 and article (5/2nd) of the F.S.C. law No. (30) of 2005, and article (17) of the bylaw of procedures of work in the court. Accordingly, the provision of paragraphs (1, 5) of the article (44) stipulated in the mentioned procedures law are to be implemented on

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 8 / federal / 2020



Kurdish text

the constitutional lawsuits when initiating it, therefore each constitutional lawsuit must be filed by a petition, and if the plaintiffs are more than one in the constitutional lawsuits, and their claim contained link or association, then the plaintiffs are allowed to initiate it with one petition that to be submitted to the Federal Supreme Court according to the procedures and controls stipulated in the bylaw of the court. As for the violation of the mentioned text, lacking the link or association between the plaintiffs and their requests prevents them from initiating the lawsuits before this court in one constitutional lawsuit, each plaintiff must submit his one independent lawsuit according to the controls and procedures stated in the bylaw. For the aforementioned, and for lacking the link and the association between the first plaintiff in addition to his post and second plaintiff with their requests when filed the lawsuit together through their agent before this court by the No. (8/federal/2020), therefore the plaintiffs' lawsuit is binding to be dismissed formally.

for all the foregoing, the court decided the following:

First: dismiss the plaintiffs' lawsuit formally each of (Sarmed Abd Alelah Muhemed / in addition to his post and Watheq Kadhem Mandel), No. (8/federal/2020) by their agent the attorney Alaa Shon Hussain against the defendant the prime minister / in addition to his post to challenge the constitutionality of decision (140) of 2019 and its procedures.

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 8 / federal / 2020



Kurdish text

Second: burden the plaintiffs the expenses and fees for the defendant agents amount of (one hundred thousand) IQ.D distributed according to the legal ratio.

This decision has been issued according to articles (94) of the Constitution of 2005, and article (5/2nd) of the Federal Supreme Court amended law No. (30) for 2005, and articles (17, 18) of the bylaw of the Federal Supreme Court No. (1) of 2005, unanimously, and final, issued publicly on (1.6.2021) A.D., (19 . Shawal .1442) A.H.

Signature of
The president

**Jasem Mohammad
Abbood**

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

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 8 / federal / 2020



Kurdish text

Signature of
The member

**Abdul Rahman
Suleiman Ali**

Signature of
The member

Diyar Muhammad Ali

Signature of
The member

**Monther Ebraheem
Husain**