

# Appealing administrative decisions before the Federal Supreme Court Iraq

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**Abstract:**

*Control of the constitutionality of laws in the federal state is necessary and even inevitable. If there is no means to ensure that this distribution of jurisdiction is effective, which prevents states from overriding the jurisdiction of the central government and vice versa, the union cannot continue. And its federal constitution, with the corresponding adoption of those mandates by an independent constitution and the legislative authority of each of them resulting in duplication of laws and decisions. To emphasize the principle of the supremacy of the constitution, the need arose to determine the principle of constitutional control, Divorce at the present time, to ensure that all public authorities and constitutional rules for its occupation of the legal pyramid in the state directly at the terms of reference assigned to it. In addition to the administrative judiciary, Article (89) of the Constitution specifies the federal judicial authority which consists of (the Supreme Judicial Council and the Court), the judiciary, the judiciary, the judiciary, The Federal Supreme Court, the Federal Court of Cassation, the Public Prosecution Service, the Judicial Supervisory Commission and the other federal courts, which are organized in accordance with the law). The judicial system in Iraq is based on a pyramid at the top of the Federal Supreme Court. The second requirement is to monitor the constitutionality of administrative decisions under the Constitution of the Republic of Iraq for the year 2005*

**Keywords:** *Appealing administrative decisions, federal supreme court, Iraq*

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Introduction.

Control of the constitutionality of laws in a federal state is necessary, indeed inevitable, if not There is a means to ensure that this allocation of jurisdiction applies, and that prevents states from overriding.

The jurisdiction of the central government and vice versa, the union cannot continue, and this pluralist reality in The constituent states of the federal state, and its federal constitution, with the corresponding recognition thereof An independent constitution and legislative authority for each of them entails duplication of laws and decisions, and to affirm a principle His Highness, the constitution, the need arose to determine the principle of constitutional control, which has become one of the most important Constitutional matters absolutely at the present time, to ensure the commitment of all public authorities By constitutional rules, it is at the top of the legal pyramid in the state when exercising the assigned powers to her. Moreover, the work of public authorities is subject to censorship and is not in violation of the constitution It has one authority, but rather several parties that monitor respect for constitutional and legal rules, as well as constitutional jurisdiction In addition to the administrative judiciary, Article 89 of the constitution specifies the judiciary

Federal (consisting of the Supreme Judicial Council, the Federal Supreme Court, and the Court of Cassation) The Federal, Public Prosecution, Judicial Supervisory Authority, and other federal courts that regulate In accordance with the law (89), as the judicial system in Iraq was established as a pyramid at the top The Federal Supreme Court and to exercise its competencies legally defined for it, including its jurisdiction By monitoring the constitutionality of laws and regulations in effect, we will address this research in two main requirements They are the first requirement, the jurisdiction of the Federal Supreme Court, and the second requirement: control of The constitutionality of administrative decisions under the 2005 Constitution of the Republic of Iraq.

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The first requirement

The jurisdiction of the Federal Supreme Court in Iraq

The jurisdiction of the Federal Supreme Court in Iraq, The jurisdiction of the Federal Supreme Court monitors the constitutionality by monitoring activity This means, firstly, the legislature by canceling laws and regulations that violate the constitution after their promulgation.

The issuance or enforcement of the law or the system has not been dependent on the prior intervention of the constitutional judge for a report, Their safety is from constitutional flaws, in a decision of the Federal Supreme Court stating that (this court) It is not competent to cancel the vote on the draft laws that take place in the Iraqi parliament

Because its jurisdiction is stipulated in Article (4) of the Federal Supreme Court Law No. 30 of the year, 2005 In Article (93) of the Constitution of the Republic of Iraq, and not including the abolition of the vote on Bills are in the Iraqi parliament, so the case must be a form and objectionable response For advanced reasons, and based on the ruling dismissing the plaintiff's suit (member) of the above, the court decided The Iraqi Parliament (with all charges charged for the case, and the verdict was passed in full agreement According to (2) of Law No. (30) of 2005 Law of the Court according to the provisions of the second paragraph of Article (2) Supreme Federalism<sup>2</sup>

As long as the legal text does not need to be issued or enforced for prior intervention from Constitutional judge to determine his constitutionality, the control over the constitutionality of subsequent laws is based on presumption In the interest of these texts, their constitutionality states that the burden of proof rests with the contrary Constitutional violation. The Iraqi Constitution of 2005 singled out Chapter Three of Chapter Three From it to the Federal Judicial Authority<sup>3</sup>, Among them is the Federal Supreme Court. The first paragraph of Article 92 of the current Iraqi constitution included that "the Federal Supreme Court is a financially and administratively independent judicial body."

Regarding the Federal Supreme Court as an independent judicial body, according to the provisions of the constitution, it is not prepared It is not part of the judicial organization, and it is not subject in the administration of its affairs to the Supreme Judicial Council, which is in charge Part of managing the affairs of other judicial bodies<sup>4</sup>

Article 90 of the Iraqi constitution of 2005 stipulates that "the Supreme Judicial Council shall assume the responsibility of judicial bodies, and the law shall determine the method of its formation, its competencies and the rules for the functioning of it." Article 91 provides for the following powers: First the constitution stipulates that "The Judicial Council exercise: The administration of judicial affairs and supervision of the judiciary Second: The nomination of the president and members of the Federal Cassation Court, the head of the Public Prosecution, and the head of the third annual Supreme Judicial Supervision Committee, and presenting them to the House of Representatives to approve their appointment.

The Iraqi constitution for the year 2995 devoted the paragraph

The second of Article 92 of it is to show how the Federal Supreme Court is formed according to a text The said paragraph "The court consists of a number of judges, experts in Islamic jurisprudence and jurists The law determines their number, regulates their method of selection, and the work of the court is by a law passed by a two-thirds majority (To the Federal Legislative Authority) the Federal Parliament<sup>5</sup>

Accordingly, the jurisdiction of the Federal Court is to monitor the constitutionality of laws and regulations The Window The content of this oversight is determined by the constitutionality of laws, administrative decisions, and regulations issued From the executive branch, as well as interpreting the provisions of the constitution and adjudicating issues arising

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<sup>2</sup> - - Decision of the Federal Supreme Court, No. 3 / Federal / 5007 on 5/7/5007 posted on the website. <http://www.iraqja.iq>. Federal to

<sup>3</sup> - Article 89 of the Iraqi constitution of 2005 stipulates that "the federal judiciary shall consist of The Supreme Judicial Council, the Federal Supreme Court, the Federal Court of Cassation, the Public Prosecution Service, and a commission Organized according to. Judicial supervision and other federal courts of law.

<sup>4</sup> -

<sup>5</sup> - Hashem Ahmed Flowers. Monitoring the constitutionality of regulations and administrative decisions in light of the Constitution of the Republic of Iraq for the year 2005, Doctor's thesis. College of Law, University of Baghdad 2015, p. 92 and beyond.

from implementation Federal laws and other jurisdictions<sup>6</sup>, From this it is clear that the Iraqi constitution of the year 2005 was bestowed upon the Federal Supreme Court

A broad mechanism that brought together being a supreme constitutional court examining the constitutionality of laws and regulations It is concerned with the interpretation of the provisions of the Constitution, and being the authority to adjudicate disputes between member regions in

The Union, or between it and the Union Government, in addition to its competence to hold the President of the Republic accountable

The Prime Minister and the ministers, as well as being a dispute court, settle disputes between jurisdiction Federal judiciary and local judicial bodies in the regions, or between the judicial authorities of the regions Or governorates not organized in a region. Accordingly, we will divide this requirement into two branches that we will deal with in the branch

#### The first: means of moving the constitutional lawsuit,

and we have devoted the second branch: conditions for payment of unconstitutionality The first branch Means of moving the constitutional lawsuit It is recognized that a constitutional lawsuit is a lawsuit and has specific conditions for its acceptance D methods for advancing unconstitutionality, which is the sub-push for unconstitutionality, which is

#### the first

#### Unconstitutional payment terms

Ethnicity has been found The forms of censorship defined by the American judiciary and assume that there is a lawsuit filed by either court, regardless Regardless of its nature, whether it is administrative or criminal, and during the consideration of the case, one of the litigants pays no , The constitutionality of the law applicable to the case before the judiciary<sup>7</sup> Regarding the lawsuit filed Directly to the Federal Supreme Court. As for Iraq, articles 3 to 6 of the system were specified The internal procedure of the Federal Court is the methods for moving the constitutional lawsuit, which we will explain in detail, as follows:

First: the courts

The legislator gave to the courts of various names and degrees in moving the constitutional lawsuit On

What building Before the Federal Supreme Court, the movement of the case will be either on its own, and One of the litigants was asked while looking into a pending suit before it. The courts requested that the constitutional lawsuit be brought before the Federal Supreme Court of its own accord

He finds its basis in Article 3 of the Court's bylaws stating "if a court requests from

On its own, while it is hearing a case, it sends the request justifying the Federal Supreme Court, but it is from

It is noted that the Iraqi legislator did not give the committees or bodies with jurisdiction to move

The constitutional lawsuit before the Federal Supreme Court of its own accord, as did the Egyptian legislator<sup>8</sup>. As for the method of referring the courts, the request to move the constitutional lawsuit to the Federal Supreme Court

It is assumed that there is a lawsuit pending before a court, and one of the litigants argues that the text is unconstitutional

In a law, regulation, instructions, or order that is required to be applied in this lawsuit and on its impact, it will be charged

The court raised before it is obliged to submit this payment with a new lawsuit to the trial court, and the latter may:

The case is accepted or rejected after the legal fee has been collected for it. If you accept it, you send it with

The documents are submitted to the Federal Supreme Court and it is decided to withdraw the original case until a result is decided

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<sup>6</sup> - See the text of Article 25 of the Iraqi Constitution of 2005.

<sup>7</sup> - Adnan Aajel Obaid, Constitutional Law. General theory and the Iraqi constitutional system .. House of Documents and Books at the National Library in Baghdad. Second edition 2012, pp. 130, 129

<sup>8</sup> - Article (29 \ a) of the Egyptian Supreme Constitutional Court Law No. 48 of 1979.

Unconstitutional appeal lodged with the Federal Supreme Court<sup>9</sup>

The arrival of a constitutional case to the Federal Supreme Court is a matter subject to discretion

Court of the matter, if it is seen from the apparent research of the text that there are reasonable reasons, it is likely not to

His constitutionality, or at least raises a strong doubt that his unconstitutionality, refers to the request for a lawsuit of unconstitutionality

To the Federal Supreme Court<sup>10</sup> But if she rejects the request to move the lawsuit unconstitutional, then she will decide  
The matter is not final.

10) <sup>11</sup>Some have expressed

On his fear that the trial court will expand its role - diligently

Judicial - to include the subject of the constitutional lawsuit filed as well as its form and at that time it will be a court On  
his fear that the trial court will expand its role - diligently

Judicial - to include the subject of the constitutional lawsuit filed as well as its form and at that time it will be a court

The subject matter referring to the constitutional case has exceeded the jurisdiction of the Federal Supreme Court

According to the provisions of the constitution.

#### Second: government agencies

Article 5 of the bylaw of the Federal Court gave the official authorities the right, The constitutional lawsuit should be stipulated in its text "if an official party requests an occasion of a dispute between them

And among another party, the separation of the legitimacy of a text in a law, a legislative decision, a system or instructions for orders Then you send the request with a claim to the Federal Supreme Court, justifying it with its evidence, by letter of signature The competent minister or head of the entity not affiliated with a ministry.<sup>12</sup>

It is clear from this article that there is no lawsuit pending before the judiciary, but that there is a dispute between Two governmental or non-governmental entities, and because of doubts about the unconstitutionality of a law Or a specific administrative decision, therefore, it is permitted to appeal before the Federal Supreme Court<sup>13</sup>.

#### Third: Private natural and moral persons.

The bylaw of the Federal Supreme Court No. 1 of 2004 was given to individuals orIn front of courtPrivate natural and juristic persons have the right to appeal against unconstitutionality directlyFederal Supreme, unlike the situation in the previous Iraqi constitutions, which deprived individuals of thisThe truth is a new way to move the constitutional lawsuit, which was unknown in Iraq<sup>14</sup>, In his case, all documents related to the case shall be attached to his lawsuit, and a lawyer

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<sup>9</sup> 8)- See Article 4 of the bylaws of the Supreme Union No. 1 of 2005.

<sup>10</sup> 9)- One of the applications of the Federal Supreme Court is its decision No. 31 Federal 2008 issued on 5/26/2009) based on the request of the trial court as a result of the payment of one of the litigants to the case brought before it in which it ruled after the constitutionality of the dissolved Revolutionary Command Council Resolution No. 800 of 1989 in violation of the provisions of Article (23 / second) From the constitution, published on the website of the Federal Supreme Court, which is iq.iraqja.www // http.

<sup>11</sup> - Ali Hadi Atiya Al-Hilali, General Theory of Interpretation and Attitudes of the Federal Supreme Court in IraqAl-Zein. 2011, p. 28.

<sup>12</sup> - See Article 5 of the Federal Court Internal Regulations.

<sup>13</sup> -Mosaddeq, Adel Talib. Constitutional Judiciary in Iraq, Al-Sinhour Library 2015, p. 30.

<sup>14</sup> -Mahmoud Khalaf Al-Jubouri. Administrative judiciary and constitutional lawsuit. A comparative study . Memory House. Edition First 2018, p. 121.

with a divisional power be appointed The law also required that all documents be signed by a lawyer<sup>15</sup>, It is noticeable that the legislator authorized moving the constitutional lawsuit from a prosecutor with an interest, so it is equal ,The plaintiff is a natural or legal person, as long as he has an interest in making the case<sup>16</sup>

### The second branch

#### Unconstitutional payment terms

The terms for payment of a constitutional lawsuit before the Federal Supreme Court are meant It is not obligatory to meet it until the appellant's case is accepted and then the subject matter is entered into, if the case was I am a story of any condition of its acceptance, because the court refrains from looking at it, even if the text is To the provisions of Article (6) of the Court's bylaws The subject matter of the challenge effectively contradicts the constitution, and based on that .

Federal Supreme No. (1) of 2005, in order to accept the constitutional lawsuit, there should be conditions thereof

Formality, including thematic, we will describe as follows:

#### First: formal conditions

Article 1 of the bylaw of the Federal Supreme Court obligated that the case be satisfied Constitutional terms for the crisis stipulated in the Civil Procedure Law No. 18 of 1969 The rate and in accordance with the provisions of these articles, the case must be filed with a petition<sup>17</sup>. The petition shall include

Details including the name of the court before which the lawsuit was filed, the date of the petition filed, and the name of the defendant The statement of the case, its facts and evidence, the plaintiff's requests and evidence, and the signature of the plaintiff or his representative.<sup>18</sup> The aforementioned data are essential data that indicate the seriousness of these cases, and whose bear is united by its subject If the constitutional lawsuit does not mention any of these statements, it is not acceptable The court shall dismiss the case and if it is of its own accord before entering into its case, it has justified The decision of the Federal Supreme Court reads as follows. Whereas the lawyer filed the case and signed its case, it was not An agent for the plaintiff in addition to his position, so the lawsuit has been evaluated without legal discount He can be admitted in the case as an attorney for the plaintiff<sup>19</sup>, Because Paragraph 7 of Article 46 of the Civil Procedure Law No. 83 of 1969 stipulates that the petition must include data, including the signature of the case from the plaintiff or his representative if the agent is authorized to authenticate it from a competent authority, so the case is obligatory to respond from the litigant's party. The lawsuit was initiated since the litigation was not directed by the court and for whom it is a person with a legal capacity The lawsuit shall be dismissed without entering into its basis pursuant to Article 80/1 of the Civil Procedure Law No. 83 of 1969 so the court decided to dismiss the plaintiff's suit with all charges<sup>20</sup>. Likewise, filing the case with the Federal Supreme Court by a competent lawyer Divorced. Cases and requests must be submitted to the Federal Supreme Court by a lawyer Absolute validity and printed regulations, not accepted by hand, and cases and requests may be submitted by departments Official from her legal representative, provided that his rank is not less than a director<sup>21</sup>

#### Second: The objective conditions

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<sup>15</sup> -Mahmoud Khalaf Al-Jubouri. **Administrative judiciary and constitutional lawsuit. A comparative study . Memory House. Edition First 2018, p. 121.**

<sup>16</sup> -Ali Hadi Atiya al-Hilali, previous source, p. 275

<sup>17</sup> -See Article (47, 46, 44, 45) of the Civil Procedure Law No. 83 of 1969.

<sup>18</sup> - See Article 46 of the Civil Procedure Law No. 84 of 1969.

<sup>19</sup> -Hashem Ahmed Flowers. *Ibid.*, P. 61

<sup>20</sup> -Court Decision No. 45 / Federal / 2010 issued on 14/14/2007, published on the website of the Federal Court. [Http //www.iraqja.iq](http://www.iraqja.iq). The following

<sup>21</sup> -See Article 20 of the Federal Court Internal Regulations.

(Article (6) of the bylaw of the Federal Supreme Court No. (1) of 2005.

In addition to the formal requirements stipulated in the Civil Procedure Law No. 83 For the year 1969, and Article 20 of the bylaws of the Federal Supreme Court there are substantive conditions (51) It must be available in order to accept the case, which is the interest<sup>22</sup>.

1 - The person filing the lawsuit must have an interest in filing it, and this interest must be a case and a direct one Influential in its legal, financial or social position. The legislator is stricter in terms of interest The plaintiff relies on it before the constitutional court, and the interest in the case in general is the benefit that it has The plaintiff reaps it from recourse to the judiciary.

2-The plaintiff submit evidence that realistic damage was caused to him by the text required to be canceled. <sup>23</sup>

3- That the damage be direct or independent of its elements and it can be removed if a judgment is issued against the illegality of the text to be repealed.

4- The damage shall not be theoretical, future or unknown.<sup>24</sup>

5- The claimant should not have benefited from an aspect of the text to be deleted.

6- That the text required to be repealed has already been applied to the claimant and is to apply it.<sup>25</sup>

There are those who believe that the Federal Court has tightened the condition of interest and that these conditions relate to In essence, which affects the status of the appellant, now the defendant can deny any characteristic of Attributes of interest before the court, especially if we know that the Federal Court does not control it It is a court of first and last degree, as the technician sometimes relaxes the condition of interest and sometimes Tightens.<sup>26</sup>

And based on the foregoing, the Federal Supreme Court decides to dismiss the case in form if it is not available to file it

An interest in the advanced conditions, in which the Federal Supreme Court ruled in the case No. 26 / Federal 7 002 dated 04/21/2008 "and where the plaintiffs' damage to orders was not proven And the decisions issued by the Prime Minister / add to his position Based on Article 140 of the constitution Their opponents in the lawsuit will not be directed Realized If the plaintiffs' dispute is not Addressed to the defendant / in addition to his position, so the plaintiffs interest in filing this lawsuit towards Also unfulfilled, as the paragraph first of the defendant / in addition to his post requires negation and from Article 6 of the bylaws of the Federal Supreme Court No. 1 of 2005 are available in the lawsuit A case and interest interest ..... So the court decided to dismiss the plaintiffs' case<sup>27</sup>, Some may object to opening the door to challenge the constitutionality of legal texts or decisions

Regulatory in this way, perhaps the most important critic of the original lawsuit

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<sup>22</sup> --(Article (6). of the bylaw of the Federal Supreme Court No. (1) of 2005

<sup>23</sup> -Some jurisprudence goes to distinguish between seriousness in payment and interest in payment. The seriousness of the payment is related Evidence with which there is a strong suspicion of violating the legislative or regulatory text of the constitution, and assessing that suspicion enters It is within the competence of the merits judge alone, while the interest in payment is expressed, which is expressed by the interest in the case Constitutionalism, so it falls within the jurisdiction of the Constitutional Court, which is a condition for accepting the constitutional lawsuit, and its mandate is to be Deciding on the constitutional issue is obligatory to adjudicate the related substantive application, and payment may be made in any Time and in front of any degree of litigation, even if this distinction is written This is before the Court of Cassation (or Cassation), and f Seriously Effects from them, that it is just a court of law allowing the person who raised the claim to file a constitutional case as a witness Payment, without the need to provide other evidence to prove this, and stopping the substantive case is not a condition for a case to accept It is the result of an assessment of the seriousness of the payment and the need to adjudicate it before ruling in the original lawsuit. Constitutional, wa Seen: Dr. Muhammad Maher Abu Al-Enein, Defenses in the Domain of Public Law, Book Two, Arab Renaissance House. 431 p. 2005

<sup>24</sup> -This is what the Federal Court ruled in its judgment No. 23 on 24/8/2006 that the settlement of disputes related to the unconstitutionality of the laws or regulations in force must be submitted by any interested party.

<sup>25</sup> -See Article 6 of the Federal Court's bylaws.

<sup>26</sup> -Mahmoud Khalaf Al-Jubouri. Administrative judiciary and constitutional lawsuit. Ibid., P. 122.

<sup>27</sup> -Jafar Kadhim al-Maliki, the reference to the Supreme Federal Court jurisdiction, is examining the details of the case. Your grip. First Edition 2011, p. 55.

Constitutionalism is that it will lead to the accumulation of appeals before the court, which hinders them from devoting themselves to their duties. Its performance is best, and this consequence of giving individuals the right to file a case can be avoided. Unconstitutional, by establishing conditions related to the interest, meaning that it is required for someone to file a case. It is original that the text of a law or regulation is unconstitutional, to have legal status that touches the contested text. Similar to the requirement of the Authority in a lawsuit to overturn the administrative decision.<sup>28</sup>

### The second requirement

#### Monitoring the constitutionality of regulations and administrative decisions in light of the Iraqi constitution for one year 2005

The legislator has given the issue of oversight of the constitutionality of administrative decisions to the Federal Supreme Court. It is possible to appeal to the Federal Court and mention it in the text of Article 93 of the Iraqi constitution.

This indicates that the jurisdiction of the court is comprehensive in exercising its oversight of constitutionalism as the body that protects and protects the constitution.

Constitutional oversight of administrative decisions is direct oversight by the court, whose mission is to extend

Administrative decisions are in agreement with the provisions of the constitution being the supreme and supreme law and therefore must not. The issuance of any legislation or decision that contravenes the provisions of the Constitutional Document G and the Court by exercising its control. On the constitutionality of laws and administrative decisions, it does not infringe upon the powers of the authority. The executive or the legislature, which makes this monitoring a safety valve and its guarantee is sure and imperative to respect.

The provisions of the constitution cancel the decisions and laws that violate it and keep what is consistent with it<sup>29</sup>.

However, with the importance of this oversight, the court will not be able to rule that an administrative decision is unconstitutional. On its own, this payment must be raised by one of the persons specified in the internal system.

For the Federal Court, and the countries whose system is composed of an administrative and constitutional jurisdiction, the judiciary will be. Constitutionalism is a legitimate judiciary, not an appropriate judiciary. Its control does not extend to the motives and ends, but rather it examines the extent to which administrative decisions conform to the provisions of the constitutional document<sup>30</sup>.

Also, the ruling issued by the Federal Court will be absolutely authoritative and binding on all sides, and an effect will be passed on to all state authorities, because the constitutional case is of an in-kind nature aimed at protecting legitimacy where the litigation is directed to the legislative texts and administrative decisions that the alleged non-constitution<sup>31</sup>. We will address this requirement in two main branches, as follows:

### The first branch

#### Monitoring the constitutionality of administrative regulations and decisions

The Iraqi constitution of 2005 made the jurisdiction of the Federal Supreme Court comprehensive to control. The constitutionality of laws and regulations, as Article 93 of the constitution stipulates that "the court shall have jurisdiction

First, the Federal Supreme Council shall: - Oversee the constitutionality of laws and regulations in force.

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<sup>28</sup>-Souad al-Sharqawi, d. Abdullah Nassef, established the constitutional law and explained the political system. Al-Masry, 1984, p. 101

<sup>29</sup> - Hamdi Ali Omar, the Egyptian constitutional system in accordance with the 2014 constitution. Maaref facility. 2016, p. 121.

<sup>30</sup> -Mahmoud Khalaf Al-Jubouri: Administrative judiciary and constitutional lawsuit. Previous source. Pp. 126 and 127.

<sup>31</sup> )- Abdul Aziz Munim Khalifa, administrative defenses in the lawsuit of cancellation and disciplinary and urgent cases. House of thought University 2010, p. 162.

The text of this article benefits from a number of key matters related to oversight of the constitutionality of regulations

It is represented by the following: First: The constitution assigns to the Federal Supreme Court alone, but not others, the task of monitoring a constitutionality Bylaws, courts or tribunals with different degrees of jurisdiction do not own

Its types are to address the constitutionality of regulations.

Second: The constitutional legislator limits the jurisdiction of the Federal Supreme Court to constitutional control over

Only systems in effect, resulting in the following two results<sup>32</sup>,

The first result: the court will leave out the regulations that have expired or canceled. This is what The Federal Supreme Court affirmed it in many of its decisions, ruling in one of them that it "found a claim The prosecutor's attorney focused on the ruling's request to cancel the decision of the dissolved Revolutionary Command Council No. (491) dated 5/4/1890 on the pretext that the aforementioned decision is contrary to the constitution, and where it has been established

The court may confirm the attorney-general's attorney and the permanent real estate registration form for the numbered properties Decision of the dissolved Revolutionary Command Council 19/332 and 232/29 Zobah, according to which they had separated residential plots in implementation No. (48 1) for the year 1980, and built on the plot numbered / 232/19 a zubat of the plaintiff's arrows

Therefore, the decision to be canceled in its entirety has been implemented and no longer exists in its entirety, so it will be the plaintiff's suit Outside the jurisdiction of this court because the first paragraph of Article 93 of the Constitution has been restricted The jurisdiction of this court is to supervise the constitutionality of laws and regulations in force, not ending its ruling As is the case in the subject matter of this lawsuit, where the requested decision was repealed and the implementation thereof was no longer enforced.

The plaintiff's suit is obligatory to respond, so the court decided to dismiss the lawsuit. ”<sup>33</sup>

The second result: the extension of the Supreme Federal Court's oversight of the constitutionality of the regulations issued by

The Executive Authority in light of the previous constitutions of the Constitution of the Republic of Iraq for the year 2005 to discuss extent Its agreement with the texts of the constitution from the substantive point of view. As for researching the extent of its constitutionality from the point of view

Formalism takes place in the light of the provisions of the constitution, in which the presented system issued a constitutional order under it.

Not by referring to the provisions of the current constitution, but rather by saying that the measures imposed by it should be applied The constitution in force at the time of the appeal is unconstitutional, which may differ from the procedures you require The constitution in force at the time of the issuance of the system will lead to the result that all the violating systems are nullified Of formalities established in the enforceable constitution, although the executive authority was unable to At the time the regulations are issued, they are required to be bound by the absence of the effective constitution when they are issued Procedures<sup>34</sup>.

The Federal Supreme Court ruled in its 3 th Federal Judgment / 2012 on 1/4/2012 // That the unpublished instructions are not respected and the court does not have jurisdiction over the ruling that it is unconstitutional, so it must Be published to be the subject of an appeal<sup>35</sup>.

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<sup>32</sup> -Zahar Hashem Ahmed. Previous source. Pp. 34 and 35.

<sup>33</sup> -(Federal Supreme Court Decision No. 8 / Federal / 2008 issued on 7/22/2007, the website of the aforementioned Federal Court.

<sup>34</sup> - Ramzi Al-Shaer, “Monitoring the constitutionality of laws, a comparative study” with an analytical study of the constitutional.

<sup>35</sup> -Decision of the Federal Supreme Court No. 3 Federal on 1/4/2012 published on the website of the court.



The Federal Supreme Court ruled that it lacked jurisdiction to monitor the legality of instructions explicitly against the law<sup>36</sup>.

Therefore, we believe and those who follow the rulings of the Federal Supreme Court that the constitutional legislator intends to text Paragraph 3 of Article 93 makes the Federal Supreme Court competent to hear disputes arising from the application of federal laws between the center and the region, regulations, instructions and orders that regulate work. Proof of that is what I went

To the Federal Supreme Court by its decision No. 34 / Federal / 2008 issued on 11/24/2008 To cancel the decision issued by the House of Representatives on 14/9/2008, which includes lifting immunity from On the basis that the opinions taken by the Council Representative (MJ) prevented him from traveling and attending the sessions accordingly Representatives are incompatible with the provisions of the constitution and the internal system of the Council The three federal powers are the legislative, executive and judicial branches And the Federal Supreme Court relied In the consideration of the case, the text of Article (93 / III) of the constitution is considered considering the dispute arising out of implementation

The internal system of the House of Representatives is considered a federal system that regulates the work of the legislative authority, as it came in/ Thirdly, the aforementioned decision.) According to Article (93) of the constitution, the Federal Court has authorized provisions.

The Supreme Court has the power to decide on decisions and actions taken by the federal authority formed under Article 47 - it finds the court

(From the constitution from the legislative, executive, judicial, and building powers The Federal Supreme Council stated that the decision taken by the House of Representatives to lift the immunity of MP (MG) and prevent him from ...

Travel and from attending sessions for the reason stated in the decision taken on 9/14/2008 is inconsistent with

The constitution and the internal system of the council, and when it was presented, the Federal Supreme Court decided to cancel the decision<sup>37</sup>.

The court also rejected many of the rulings that were considered as such, such as administrative decisions

What stipulates in its rulings that administrative decisions are outside the jurisdiction of the court.<sup>38</sup>

As it comes out On the jurisdiction of the Federal Supreme Court, the decisions in force before the 2005 constitution, that is, the decisions that have been completed<sup>39</sup>.

The Federal Supreme Court ruled in one

Its provisions for the constitutionality of CPA Resolution No. 2 of 27 June 2003<sup>40</sup>

The Federal Court also affirmed by another decision that pure administrative decisions fall within Administrative jurisdiction<sup>41</sup>

And the departure of decisions that are administrative subject to the jurisdiction of the court

And the individual administration, despite its issuance by one of the legislative authorities - federal decisions

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<sup>36</sup> -(Federal Supreme Court Decision No. 37 / Federal / 2008 dated 17/1/2008, Jaafar Al-Maliki, Kazem, former source, p. 100,

<sup>37</sup> - The full text of the decision is viewed on the website of the following Federal Supreme Court. [iq.iraqja.www](http://iq.iraqja.www).

<sup>38</sup> - (Federal Supreme Court Decision No. 1 Federal 2014 dated 4/5/2014 on the Federal Court website Previously mentioned. This is considered in the Federal Supreme Court Decision No. 2 / Federal / 2010 dated 4/27/2010 which stipulated that the decision issued by the Minister of Finance is considered an administrative decision and it is within the jurisdiction of the administrative judiciary. Available on the previously mentioned Federal Court website.

<sup>39</sup> - Decision of the Federal Supreme Court No. 27 / Federal / 2017 dated 5/29/2017 published on the previously mentioned court website

<sup>40</sup> -Federal Court Decision No. 144 / Federal / 2017 dated 17/1/2018 posted on the aforementioned Federal Court website.

<sup>41</sup>-Federal Court Decision No. 146 / Federal / 2017 dated 11/11/2018 posted on the website of the Federal Court

The executive branch - in the general sense of legislation, however, and by its nature, only legal centers are created

(, Even if the individual decision is contrary to the constitution for specific individuals and their individuals or specific cases)

directly<sup>42</sup>

It shall be excluded from the jurisdiction of the Federal Supreme Court, as it stated in its decision that it is “

Upon scrutiny and deliberation by the court it was found that the plaintiff’s suit includes a guaranteed void request

Cabinet letter number F / 1/1/26/1527 and ordering the continuation of the special procedures<sup>43</sup>.

By file 346/2005, it is a purely administrative decision and the competent authority to decide it is a court<sup>44</sup>.

Administrative jurisdiction exclusively according to the text contained in second / d of Article Seven of the Law of the State Council No. 15 of 1979 as amended, and it is not within the competence of the Federal Supreme Court to consider validity Administrative orders and decisions issued by employees and bodies in the state’s departments and terms of reference The Federal Supreme Court is specified in Article 4 of its Law No. 30 of 2005 and the foregoing (It was decided to dismiss the case.).

### The second branch

#### Control the constitutionality of decisions issued by local councils

The Iraqi constitution of 2005 decides that the governorates that are not organized in a region are linked to the authority

Centralization by the Association for Administrative <sup>45</sup>Decentralization, where it stipulates that governorates that are not organized in

The region has extensive administrative and financial powers, enabling it to manage its affairs in accordance with a principle

Therefore, the law on irregular governorates was issued in administrative centralization, and this is regulated by law. And implementation of 21 dated 2008/19/19/2008<sup>46</sup>.

According to the provisions of the aforementioned law, administrative councils are required in the governorates and districts<sup>47</sup>.

And respects It exercises it, and it enjoys financial and administrative independence, and in order to carry out its activities, we have the ability to Taxes, fees and wages are collected in accordance with the provisions of the applicable federal laws and jurisdiction is removed.<sup>48</sup>

And local councils when they exercise their administrative function And make decisions in a field Its terms of reference, whether it is local legislation or regulations and instructions, as such actions may contradict or Contradicting a constitutional principle or the text of an enforceable federal law, a violation of the rights and freedoms that were issued

Including the constitution, so who is the authority competent to challenge the unconstitutionality of decisions issued by?

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<sup>42</sup> - **Federal Court Decision No. 24 / Federal / 2018 dated 11/11/2018 / published on the website of the aforementioned court.**

<sup>43</sup> -**See more: Dr. Maher Saleh Alawi, Administrative Decision, Dar Al-Hekma for Printing and Publishing, Baghdad, 1996, p. 166.**

<sup>44</sup> **Ramzi Al-Shaer, General Theory of Constitutional Law, previous source, p. 803.-**

<sup>45</sup> -**See: Federal Supreme Court Decision No. 17 / Federal / 2006 on February 20,3, 2007, referred to in a website.**

<sup>46</sup> - **See Article 122 / Second of the 2005 Iraqi constitution.**

<sup>47</sup> - **The Law on Irregular Governorates in Region No. 21 of 2008 included four chapters related to the local administration and the procedures for its formation, while the second section was devoted to the heads of administrative units, and the third chapter clarifies the sources of financial resources for the governorate, and the fourth and final chapter included final provisions.**

<sup>48</sup> -**Article (Third / First) of the Governorates Law, which is not organized in Region No. 21 of 2008.**

The local councils and the authority competent to consider the appeal in this case.<sup>49</sup>

The Governorates Law, which is not organized in the governor's region, granted the right to challenge the unconstitutionality of the decisions Issued by the local councils before the Federal Supreme Court, where it was stated to the governor to object The decisions of the Governorate Council or the Local Council in the following cases:

A-If it violates the constitution or the laws in force.

B - If the decisions are not within the jurisdiction of the Council.

C - If the decisions are contrary to the general plan of the Federal Government or the budget.

If any of the above-mentioned cases is true for the governor, the decision will be returned to a council

The governorate or local council within a maximum period of fifteen days from the date of notifying it, together with it

The reasons for his objection and observations

. But if the council insists on its decision, or amends it in a way that does not eliminate the violation, then the governor may

The authority to appeal a decision before the Federal Supreme Court We have the following text: The text of Article 93 of the Constitution of the Republic Iraq for the year 2005 accommodates this jurisdiction, as the irregular governorates law in A region, but it is like the legislation and laws that regulate the relationship between the center and the governorates other than

Regular in a region, as decisions issued by the provincial council are executed prior to what is stipulated in Article 93

From the constitution. Article (31/11/3) gave the governor the right to refer the decision to the court

The Federal Supreme when the provincial council or local council insists on its decision to decide it

How to conduct an appeal by referring to Article 3 of the bylaw of the Federal Supreme Court No.

1 for the year 2005, we find that the referral request is made by a court of its own or during

Her case is a case to decide the legality of a provision in a law, regulation, or instructions related to that lawsuit at that time

It refers the request in explanation to the Federal Supreme Court for decision, bearing in mind that the assignment is not an absolute right

For the court, and even a referral decision issued by a court is bound by an important limitation is that the text be replaced

An appeal against a binding case is pending before that court, which results in the fact that it is not entitled to adjudicate the case The Governor may refer the decision to decide on his constitutionality or its unconstitutionality, but rather he must take the course of the case and this

What was confirmed by the Federal Supreme Court by its decision No. 32 / Federal / 2012 issued on 5/8/2012

Where it was stated upon scrutiny and deliberation by the Federal Supreme Court, it was found that Wasit Governorate / Division Legal / Court was requested by its letter number (4846) on 4/4/2012 to take action

Wasit Provincial Council, its Resolution No. (851), dated 26/25/2012, and its insistence on its decision despite

The land was used to preserve the decisions in implementation of the provisions of Article (4846 eleven) of the law

The governorates that are not organized in the Region No. (851) for the year 4/4/2012, as amended, have been verified

The subject to be decided on is that it constitutes a dispute between the governorate and the governorate council, which requires

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<sup>49</sup> - Article 22 of the Law of Governorates not organized in the Region No. 21 of 2008.

Howl regarding her request according to the filing of a lawsuit in accordance with the law for adjudication, and the governor can establish a father

Progress ..<sup>50</sup>

On the one hand, on the other hand, the mentioned article did not indicate the period of the appeal or.) Starting it The legislator did not give individuals the right to appeal the decisions of local councils in the event that it is On the rights and freedoms of thousands of people<sup>51</sup>, the Federal Supreme Court has affirmed its decision<sup>52</sup>

The decision included an assault No. 35 Federal Federation of 2013 that challenging the decisions of the Governorate Council is the prerogative of the Governor to see this right for others. Not exceeding It is worth noting that the Federal Court was exercising a discriminatory role in the decisions of the judiciary Administrative, where the second amendment of the State Council Law No. 106 of 1989 granted jurisdiction<sup>53</sup>.

Discriminatory to the Federal Court. The Federal Court ruled several distinctions of the administrative judiciary

For example, it decided to discriminate by its decision 110 / Federal / 2011 on 22/1/2012 that the decision is<sup>54</sup>

It supported the decision of the State Council, which stipulated that no retirement service should be counted for the distinction (Q)<sup>55</sup>

Because he did not practice his service, he must be in the Karbala Provincial Council

. Now the matter has returned to the administrative court

Iraqi after it was granted to the Federal Court<sup>56</sup>

The State Council exercises discriminatory jurisdiction

On the decisions that appeal to him, as in the case of the Federal Court of Cassation As for the impact of the unconstitutional appeal on the lawsuit of cancellation, which is suspended by the court of justice

The administrator, Dr. Mahmoud Khalaf Al-Jubouri, believes that pushing unconstitutionality is a push in a preliminary matter

Judgment depends on the judgment of the original case. That is, the separation in the preliminary question falls within<sup>57</sup>

The jurisdiction of the Federal Court is outside the scope of administrative jurisdiction. Accordingly, the lawsuit will be suspended Until a decision is taken before the constitutional court of the Federal Court. Sometimes the court may respond.

The Federal Supreme Committee is objectively challenged as it deviates from its competence and in this case.<sup>58</sup>

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<sup>50</sup> -(For more details on the jurisdiction of provincial councils that are not organized in a region and its supervision, see Amir Abdullah Ahmad Abboud, Master Thesis submitted to the College of Law Council, Tikrit University, 2014, p. 81 and beyond). Quoted from Hashem Ahmed's flowers, previous source, p. 43.

<sup>51</sup> - Article 31 / Eleven of the Governorates Law, which is not organized in a region, No. 21 of 2005.-

<sup>52</sup> - See Article 2 of the Fifth Amendment Law of the State Council No. 17 2017

<sup>53</sup>-Article 31 / Eleven / 3 of the Governorates Law, which is not organized in a region No. 21 of 2005.

<sup>54</sup> - Federal Supreme Court Decision No. 22 / Federal / 2012 issued on 5/8/2012 is available on the website of the aforementioned court

<sup>55</sup> - Azhar Hashem Mahdi, previous source, p. 44.

<sup>56</sup> - The same source, p. 46.

<sup>57</sup> -See Article 7 / First / H / of the Second Amendment Law of the International Council and see Article 4 of the Law of the Court Federal No. 30 of 2005.

<sup>58</sup> - Mahmoud Khalaf Al-Jubouri. Administrative judiciary and constitutional lawsuit. Ibid. Pp. 218, 219 and 220.

The Administrative Court may continue to hear the case from the point it reached and it has been decided A federal court is unconstitutional for a specific administrative decision, in which case it is not necessary to continue Considering this case as long as it becomes unconstitutional<sup>59</sup>.

### Conclusion

The jurisdiction of the Federal Supreme Court is to adjudicate cases that arise from the application of laws Federal, decisions, regulations, instructions and procedures issued by the Federal Authority, these are Midwife and interpretation. This sparked widespread controversy in the 2005 constitution that made it an interpretation

First

The scope of the jurisdiction of the Federal Court and opinions differed on this matter until some went to say that the scope

The jurisdiction of the court - in terms of its oversight of regulations - is not limited to researching its constitutionality, but rather It extends to include research on the legality of regulations, and the court is also competent to monitor the legality of decisions Administration, instructions and procedures. The interference of the constitutional judiciary with the jurisdiction of the administrative judiciary It would confuse the entire judicial process and threaten the interests and rights of individuals now It takes a portion of the jurisdiction of the administrative judiciary and adds it to the jurisdiction of the constitutional judiciary Individuals carry burdensome burdens that conflict with facilitating litigation procedures within a protection framework

Also, assuming recognition of the necessity of examining the constitutionality of administrative work from regulations

And administrative decisions by the constitutional judiciary in accordance with Article 93 of the Iraqi constitution, the regulations The decisions mentioned in the text of the aforementioned article are those arising from the application of federal laws And the resulting disputes between the center and the region, and this means that these decisions are of a nature Constitutional, which is part of a single complex legal process, thus making jurisdiction exclusive to it Finally, the constitution alongside federal laws as one system. The ethnic legislator responded to an appeal Jurisprudence establishing a higher administrative court to be competent to hear appeals related to rulings issued by.

### Margins

- (1) Decision of the Federal Supreme Court, No. 3 / Federal / 2007 on 7/2/2007 posted on the website <http://www.iraqja.iq>. Federal Court.
- (2) (Article 89 of the Iraqi Constitution of 2005 stipulates that "the federal judiciary shall consist ofThe Supreme Judicial Council, the Federal Supreme Court, the Federal Court of Cassation, the Public Prosecution Service, and a commission Organized according to. Judicial supervision and other federal courts of law
- (3) Article 90 of the Iraqi Constitution of 2005 stipulates that "The Supreme Judicial Council shall assume the administration of affairs Judicial bodies, and the law defines the way it is formed, its terms of reference, and the rules for the functioning of it. "Article 91 of The following powers: First, the constitution stipulating that "the Judicial Council exercise: Federal Judiciary Second: Nominate the president and members of the Federal Cassation Court, the head of the Public Prosecution, and the head of a panel Third, the annual high judicial supervision and submitting it to the House of Representatives to approve their appointment. Recommend the parallel project To the Federal Judicial Authority and present it to the House of Representatives for approval. "
- (4) Hashem Ahmed Flowers. Monitoring the constitutionality of regulations and administrative decisions in light of the Constitution of the Republic of Iraq for the year 2005, Doctor's thesis. College of Law, University of Baghdad 2015.
- (5) See the text of Article 93 of the Iraqi Constitution of 2005.
- (6) Adnan Aajel Obaid, constitutional law. General theory and the Iraqi constitutional system .. House of Documents and Books at the National Library in Baghdad. Second edition 2012, p. 129-130.
- (7) (Article (29 \ a) of the Egyptian Supreme Constitutional Court Law No. 48 of 1979.
- (8) (See Article 4 of the bylaws of the Supreme Union No. 1 of 2005.
- (9) (One of the applications of the Federal Supreme Court is its decision No. 31 Federal 2008 issued on 5/26/2009) based on the request of the trial court as a result of the payment of one of the litigants to the case brought before

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<sup>59</sup> -(The Federal Court decision is considered in its discriminatory capacity No. 110 / Federal / 2011 dated 01/22/2012 published on the previously mentioned court website. On the previously mentioned court website.

- it in which it ruled after the constitutionality of the dissolved Revolutionary Command Council Resolution No. 800 of 1989 in violation of the provisions of Article (23 / second) From the constitution, published on the website of the Federal Supreme Court, which is [iq.iraqja.www // http](http://iq.iraqja.www).
- (10) Ali Hadi Atiya Al-Hilali, General Theory of Interpretation and Attitudes of the Federal Supreme Court in IraqAl-Zein. 2011, p. 28.
  - (11) See Article 5 of the Federal Court Internal Regulations.
  - (12) Mosaddeq, Adel Talib. Constitutional Judiciary in Iraq, Al-Sinhour Library 2015, p. 30.
  - (13) See Article 6 of the Federal Court Internal Regulations.
  - (14) Mahmoud Khalaf Al-Jubouri. Administrative judiciary and constitutional lawsuit. A comparative study . Memory House. Edition First 2018, p. 121.
  - (15) Ali Hadi Atiya al-Hilali, previous source, p. 275.
  - (16) See Article (47, 46, 44, 45) of the Civil Procedure Law No. 83 of 1969.
  - (17) See Article 46 of the Civil Procedure Law No. 84 of 1969.
  - (18) Hashem Ahmed Flowers. Ibid., P. 61.
  - (19) Court Decision No. 45 / Federal / 2010 issued on 14/14/2007, published on the website of the Federal Court. [Http //www.iraqja.iq](http://www.iraqja.iq). The following
  - (20) See Article 20 of the Federal Court Internal Regulations.
  - (21) (Article (6) of the bylaw of the Federal Supreme Court No. (1) of 2005.
  - (22) Some jurisprudence goes to distinguish between seriousness in payment and interest in payment. The seriousness of the payment is related Evidence with which there is a strong suspicion of violating the legislative or regulatory text of the constitution, and assessing that suspicion enters It is within the competence of the merits judge alone, while the interest in payment is expressed, which is expressed by the interest in the case Constitutionalism, so it falls within the jurisdiction of the Constitutional Court, which is a condition for accepting the constitutional lawsuit, and its mandate is to be Deciding on the constitutional issue is obligatory to adjudicate the related substantive application, and payment may be made in any Time and in front of any degree of litigation, even if this distinction is written This is before the Court of Cassation (or Cassation), and f Seriously Effects from them, that it is just a court of law allowing the person who raised the claim to file a constitutional case as a witness Payment, without the need to provide other evidence to prove this, and stopping the substantive case is not a condition for a case to accept It is the result of an assessment of the seriousness of the payment and the need to adjudicate it before ruling in the original lawsuit. Constitutional, wa Seen: Dr. Muhammad Maher Abu Al-Enein, Defenses in the Domain of Public Law, Book Two, Arab Renaissance House. 431 p. 2005
  - (23) ) This is what the Federal Court ruled in its judgment No. 23 on 24/8/2006 that the settlement of disputes related to the unconstitutionality of the laws or regulations in force must be submitted by any interested party.
  - (24) See Article 6 of the Federal Court's bylaws.
  - (25) Mahmoud Khalaf Al-Jubouri. Administrative judiciary and constitutional lawsuit. Ibid., P. 122.
  - (26) Jafar Kadhim al-Maliki, the reference to the Supreme Federal Court jurisdiction, is examining the details of the case. Your grip. First Edition 2011, p. 55.
  - (27) Souad al-Sharqawi, d. Abdullah Nassef, established the constitutional law and explained the political systemAl-Masry, 1984, p. 101.
  - (28) Hamdi Ali Omar, the Egyptian constitutional system in accordance with the 2014 constitution. Maaref facility. 2016, p. 121.
  - (29) Mahmoud Khalaf Al-Jubouri: Administrative judiciary and constitutional lawsuit. Previous source. Pp. 126 and 127.
  - (30) Abdul Aziz Munim Khalifa, administrative defenses in the lawsuit of cancellation and disciplinary and urgent cases. House of thought University 2010, p. 162.
  - (31) Zahar Hashem Ahmed. Previous source. Pp. 34 and 35.
  - (32) (Federal Supreme Court Decision No. 8 / Federal / 2008 issued on 7/22/2007, the website of the aforementioned Federal Court.
  - (33) Ramzi Al-Shaer, "Monitoring the constitutionality of laws, a comparative study" with an analytical study of the constitutional judiciary in Egypt, Al-Tayseer Press, Cairo, 2007, pp. 176-178.
  - (34) Decision of the Federal Supreme Court No. 3 Federal on 1/4/2012 published on the website of the court.
  - (35) (Federal Supreme Court Decision No. 37 / Federal / 2008 dated 17/1/2008, Jaafar Al-Maliki, Kazem, former source, p. 100,
  - (36) The full text of the decision is viewed on the website of the following Federal Supreme Court. [iq.iraqja.www](http://iq.iraqja.www).
  - (37) (Federal Supreme Court Decision No. 1 Federal 2014 dated 4/5/2014 on the Federal Court websitePreviously mentioned. This is considered in the Federal Supreme Court Decision No. 2 / Federal / 2010 dated 4/27/2010 which stipulated that the decision issued by the Minister of Finance is considered an administrative decision and it is within the jurisdiction of the administrative judiciary. Available on the previously mentioned Federal Court website.

- (38) Decision of the Federal Supreme Court No. 27 / Federal / 2017 dated 5/29/2017 published on the previously mentioned court website
- (39) Federal Court Decision No. 144 / Federal / 2017 dated 17/1/2018 posted on the aforementioned Federal Court website.
- (40) Federal Court Decision No. 146 / Federal / 2017 dated 11/11/2018 posted on the website of the Federal Court
- (41) Federal Court Decision No. 24 / Federal / 2018 dated 11/11/2018 / published on the website of the aforementioned court.
- (42) See more: Dr. Maher Saleh Alawi, Administrative Decision, Dar Al-Hekma for Printing and Publishing, Baghdad, 1996, p. 166.
- (43) Ramzi Al-Shaer, General Theory of Constitutional Law, previous source, p. 803.
- (44) See: Federal Supreme Court Decision No. 17 / Federal / 2006 on February 20,3, 2007, referred to in a website.
- (45) See Article 122 / Second of the 2005 Iraqi constitution.
- (46) The Law on Irregular Governorates in Region No. 21 of 2008 included four chapters related to the local administration and the procedures for its formation, while the second section was devoted to the heads of administrative units, and the third chapter clarifies the sources of financial resources for the governorate, and the fourth and final chapter included final provisions.
- (47) Article (Third / First) of the Governorates Law, which is not organized in Region No. 21 of 2008.
- (48) Article 22 of the Law of Governorates not organized in the Region No. 21 of 2008.
- (49) (For more details on the jurisdiction of provincial councils that are not organized in a region and its supervision, see Amir Abdullah Ahmad Abboud, Master Thesis submitted to the College of Law Council, Tikrit University, 2014, p. 81 and beyond). Quoted from Hashem Ahmed's flowers, previous source, p. 43.
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- (51) Article 31 / Eleven / 3 of the Governorates Law, which is not organized in a region No. 21 of 2005.
- (52) Federal Supreme Court Decision No. 22 / Federal / 2012 issued on 5/8/2012 is available on the website of the aforementioned court.
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- (54) The same source, p. 46.
- (55) (The Federal Court decision is considered in its discriminatory capacity No. 110 / Federal / 2011 dated 01/22/2012 published on the previously mentioned court website. On the previously mentioned court website.
- (56) See Article 7 / First / H / of the Second Amendment Law of the International Council and see Article 4 of the Law of the Court Federal No. 30 of 2005.
- (57) See Article 2 of the Fifth Amendment Law of the State Council No. 17 2017.
- (58) Mahmoud Khalaf Al-Jubouri. Administrative judiciary and constitutional lawsuit. Ibid. Pp. 218, 219 and 220.

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- 2) First edition 2011.
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- 5) Dr. Abdul-Aziz Munim Khalifa, administrative defenses in the lawsuit of cancellation and lawsuits Disciplinary and urgent. University Thought Center. 2010.
- 6) Dr. Adnan Aajel Obaid, Constitutional Law. General theory and constitutional order Iraqi House of documents and books at the National Library in Baghdad. Second Edition . 2012
- 7) Dr. Ramzi Al-Shaer, Control of Constitutional Laws, A Comparative Study "with an Analytical Study For the constitutional judiciary in Egypt, El-Tayseer Press, Cairo, 2004.
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- 11) Federal Supreme in Iraq. Dar Al-Zain 2011.
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- 14) Dr. Maher Saleh Alawi, Administrative Decision, Dar Al-Hekma for Printing and Publishing, Baghdad. 1991
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- 16) Amir Abdullah Abdullah Aboud, Master Thesis submitted to the College Council Law, Tikrit University, 2014. Beyond.
- 17) The Iraqi Constitution of 2005 in force
- 18) Law of Governorates not organized in the Region No. 21 of 2005.
- 19) Egyptian Supreme Constitutional Court Law No. 48 of 1979.
- 20) Civil Procedure Law No. 83 of 1969.
- 21) The bylaws of the Federal Supreme Court No. 1 of 2005
- 22) Federal Decision of the Federal Supreme Court No. 3 of 4/6/2012 published on Court website
- 23) Court Decision No. 45 / Federal / 2010 issued on 14/6/2010, published On the website of the Federal Supreme Court at .iq.iraqja.www // http.
- 24) Decision of the Federal Supreme Court, No. 3 / Federal / 2007 on 7/25007 Posted on the Federal Court website .iq.iraqja.www //