The Federal Supreme Court (F S C) has been convened on 7/4/2026 headed by Judge Munther Ibrahim Husain and the membership of the Vice-President, Judge Samir Abbas Mohammed and the members of the court, the judges, Ghaleb Amer Shunain, Hayder Jaber Abed, Hayder Ali Noori, Khalaf Ahmed Rajab, Ayoob Abbas Saleh, Dyar Mohammed Ali and Sedki Salim Khan Noaman who are authorized in the name of the people to judge and they made the following decision:

The plaintiff : The Head of the Border Ports Authority / in addition to his job – His agents the legal employees Khaled Abd-AlLatif Addai and Ahmed Baher Hammadi.

The defendant : Chairman of the Wasit Provincial Council / in addition to his job - His legal employee Jaafar Radi Hamad.

The Claim:

The plaintiff, through his agent claimed that a yard was established adjacent to the Zurbatia Border Crossing belonging to (the plaintiff's party), managed by employees of the Wasit Provincial Council for the purpose of collecting money from trucks in accordance with article (5) of (the Law on Imposing Taxes and Fees and Spending Them in the Parking Lot in Badra District No. 1 of 2009). Issued by the Wasit Provincial Council, which states that (the following fees are imposed under the provisions of this law: 1- Trucks: A- Flat trailer (200,000) two hundred thousand dinars... etc.), a dispute arose from the application of this law between the plaintiff and the provincial council, which was subsequently referred to the (Border Ports Authority Council) formed under article (4/1st) of Authority Law No. (30) of 2016. Which includes in its formation a representative from each governorate that has a border crossing, including Wasit Governorate, and the council decided to notify the Wasit Governorate Council (to stop the completion procedures and cancel those areas that negatively affect trade exchange). However, work is still ongoing there and negatively affects the movement of trade exchange, as confirmed by the letters from the Directorate of the Zarbatia border crossing and complaints from (customs clearance agents and drivers), and it leads to a disruption of commercial, customs, and economic policy. Whereas trucks loaded with goods imported through the Zirbatia border crossing bear higher costs, in addition to the money collected by the Provincial Council, which leads to an increase in the prices of goods imported through the aforementioned crossing.Whereas article (110) of the Constitution of the Republic of Iraq of 2005 defined the exclusive competences of the federal authorities, including drawing up the sovereign economic and trade policy in its paragraph (1st) and drawing up fiscal and customs policy and organizing trade policy across the borders of regions and governorates in Iraq in item (Thirdly), including the existence of a conflict between article (5) of the Law on Imposing Taxes and Fees and Spending Them in the Parking Area in Badra District No. (1) of 2009 and the provisions of the Constitution.

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Therefore, the plaintiff requested a ruling on its unconstitutionality, and after the lawsuit was registered with this court under No. (240/Federal/2025) and the legal fee for it was fulfilled, and the defendant was notified of its petition and documents based on article (6/1st and 2nd) of the Court's Internal Regulations No. (1) of 2025, and after the period required for submitting a response, as stipulated in paragraph (3rd) of the same article, had ended. The court set a date for the pleading and notified both parties, on which the court was formed and the public presence pleading began, after the court listened to the statements of the plaintiff's agents and the defendant's agent and reviewed the defendant's reply list dated 8/1/2026 and the letter of the Wasit Provincial Council No. (910) on 19/2/2026 - Their summary is that their client has issued the law (subject of the lawsuit) based on the extensive financial and administrative powers granted to him according to the principle of administrative decentralization, as well as based on the Law of Non - Organized Governorates in the Region No. (21) of 2008 in articles (2/1st and 7/3rd) thereof, including granting the Provincial Council the authority to issue local legislation, enabling it to manage its affairs according to the principle of administrative decentralization, in a manner that does not conflict with the constitution and federal laws that fall within the exclusive competences of the federal authorities. As well as the court decision No. (16/Federal/2008) and the request to reject the lawsuit on the bases that the law has been repealed since Law No. (1) of 2013 was issued, which was not stated explicitly except that the Law on Maximizing Local Revenues in Wasit Governorate No. (1) of 2019 was

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issued, pursuant to the Wasit Governorate Council decision No. (1324) adopted in session number (242) on 14/5/2019, which article (9) of it confirmed. On the cancellation of all laws and decisions previously issued by the Provincial Council, and that this law is the only official law in the province), and it has reviewed the request submitted by the plaintiff's agents dated 3/3/2026, they are requesting the initiation of an incidental lawsuit in which its subject is to rule on the constitutionality of article (4/3rd/1) of law No. (1) of 2019, based on article (67) of the Civil Procedure Law No. (83) of 1969, as amended. The court decided to accept it and charging them with paying the legal fee for it, given that its subject is related and connected to the original lawsuit. Since the court has completed its scrutinies and there is nothing further to be said, the conclusion of the pleading has been understood and the court issued its following decision:

The Decision:

Upon scrutiny and deliberation by the FSC, it was found that the plaintiff (the Head of the Border Ports Authority/ in addition to his job) filed this lawsuit requesting a ruling on the unconstitutionality of article (5) of the Law on Imposing Taxes and Fees and its use in the parking lot in Badrah town. Issued by the Wasit Provincial Council under No. (1) of 2009, according to which fees were imposed on vehicles transporting goods from the border crossing and the collection and expenditure of these fees were organized, and after it became clear that the aforementioned law had been repealed pursuant to law No. (1) of 2019.

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Issued by the same council, which article (4/3rd/1) thereof stipulates the collection fees on cars in the border area, and it is the same contested provision,the agents of (the plaintiff/ in addition to his job) requested the filing of a joined lawsuit to challenge the aforementioned text in accordance with their request, for which the legal fee was duly paid, on 10/3/2026, and the court decided to accept it in the pleading session on the same date. After reviewing the regulations and the reciprocal defenses between the two parties, the court finds that the lawsuit is admissible in form, in terms of jurisdiction, litigation, and interest. As for the substantive aspect, the court finds, despite having explicitly stated in its decision No. (16/Federal/2008) that the councils of governorates not organized in a region have the authority to enact local legislation and issue laws related to the imposition, collection, and expenditure of local taxes, as well as to enact laws related to the imposition, collection, and expenditure of fees and fines. As it allows it to manage its affairs according to the principle of administrative decentralization, and this is what the Court's judiciary has settled in its decisions No. (64/Federal/2014 and 245/Federal/2024), and this judicial opinion has become binding and obligatory to be applied by all authorities and all state institutions, including the FSC, however, the court simultaneously finds that the aforementioned decisions do not grant provincial councils absolute authority in issuing legislation, nor do they allow them to exceed the limits of locally designated competencies constitutionally, and in a manner that does not conflict with the constitution and federal laws that regulate the exclusive powers of

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federal authorities, and whereas article (28/1st) of the constitution. It stipulated that '(taxes and fees shall not be imposed, amended, collected, or exempted except by law),' and 'law' in this context has been understood to include local legislation according to the aforementioned court decisions, yet this constitutional text restricts the logic of local authority. Since any imposition of taxes or fees must be carried out within the scope of the local administration and the local service facility and must not exceed it to include an activity or resource that falls within the exclusive competencies of the federal authority, and since the challenged text is from Law No. (1) of 2019. Imposing a tax on vehicles that transport goods from the border crossing in Wasit Governorate, which is an activity related to border, customs policy, and cross-border trade, all of which fall under the exclusive jurisdiction of the federal government. What this law has imposed does not fall under what is called a local tax or fee for managing the affairs of the governorate, but rather represents a direct interference in the financial policy and the tax sovereignty of the state.Contrary to the restrictions contained in the decisions of this very court, therefore, based on the foregoing, the contested text has exceeded the limits of the local legislative authority of the governorate and violated the constitutional restriction on the nature of imposing taxes and fees. The ruling requires its unconstitutionality, and for all that has been mentioned and upon request, the FSC has decided the following:

First: Ruling on the unconstitutionality of article (4/3rd/1) of the Law on the Regulation of Local Revenues in Wasit Governorate No. (1) of 2019.

Second: Charging the defendant (President of the Wasit Governorate Council/ in addition to his job) with the fees, expenses, and attorneyship fees of the agent of (the plaintiff / in addition to his job) an amount to (150,000) one hundred and fifty thousand dinars to be distributed in accordance with the provisions of the law.

The judgment was issued by agreement based on the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq of 2005 and (4 and 5/2nd) of the Law of the FSC No. (30) of 2005, amended by law No. (25) of 2021, final and binding and publicly understood on 7/4/2026.

Judge
Munther Ibrahim Husain
President of the Federal Supreme Court

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