



The Federal Supreme Court (F.S.C.) has been convened on 4.12.2013 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen whom are authorized in the name of the people to judge, they made the following decision:

The Request:

The judge of Al-Karkh First Instant Court requested in his letter no.(375/beh/2013) dated on 31.10.2013 to the F.S.C. the following:- we present to your estimated court that the lawsuit no.(37 / beh/2013) presented before this court between the plaintiff and third parties against the defendant Minister of Finance being in this post requesting to be compensated for the plot and the building on the property no.(4/216) m² Al-Dawody according to the law of the Property Claims Committee no.(13) for 2010, the plaintiff and the third parties on the argument session (27.10.2013) agreed that lawsuit was filed under the provision of article (25) of the Committee Law, the court on the same session stated that according to the F.S.C. bylaw no.(1) for 2005, it could send the lawsuit to your court to consider the



constitutionality of the legal text or regulation, the court sees that the text of article (25) of the law of the Property Claims Committee contradicts with article (2/c) and article (14) of the constitution, as that article came in contradiction to the principle of equality between the litigation parties before courts, and contrary to the principle of the plea of the rulings on all people, it stated to calculate the compensation again for the injustice of the court's ruling that acquired final degree, this concept contradicts the principle of parties equality before law, this court sees that article (25) of the committee law is unconstitutional, accordingly the court decided to send the dossier to your estimated court according to article (3) of the F.S.C. bylaw no.(1) for 2005 to consider the constitutionality of article (25) of the law of the Property Claims Committee no.(13) for 2010, please to review, with estimation.

The request has been scrutinized and deliberated by the F.S.C. and it decided the following:

The decision:

During scrutiny and deliberation by the F.S.C., it found that the judge of Al-Karkh First Instant Court challenges the constitutionality of article (25) of the law of the Property Claims Committee no.(13) for 2010 for contradicting article (2/c) and article (14) of the constitution of 2005, it found that article (25)

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Kurdish text

of the law of the Property Claims Committee no.(13) for 2010 stated that (those who were unfairly committed as a result of implementing the law no.(2) for 2006 have the right to compensation at the time of filing the lawsuit, and they have the right to institute a lawsuit under the new law with retroactive effect to lift the injustice), article (2/c) of the constitution stated (no law may be enacted that contradicts the rights and basic freedoms stipulated in this Constitution.), article (14) of it stated (Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status), as the aim of enacting the law (13) of 2010 is to guarantee the citizens' rights whom their properties were taken contrary to law, to be compensated fairly in a way to treat the injustice and to preserve the public funds, this compensation must be considering all citizens equally without discrimination as implementing for article (14) of the constitution and article (19/6th) of it which stated (every person shall have the right to be treated with justice in judicial and administrative proceedings). As the principle stated in article (25) of the Property Claims Committee law no.(13) for 2010 contradicts the principle of equality between citizens in obtaining compensation for the property taken from them especially in cases of judicial appropriation, it



also contradicts the principle of plea of rulings stated in article (105) of the law of evidence no.(107) for 1979 the amended which stipulated that (the rulings issued by the Iraqi courts that become final consider as plea in what it adjudicated of rights if the lawsuit parties are united, and their capacities didn't changes, and the despot is related to the right itself in place and in cause), article (106) of it stated (it is not permissible to accept evidence that repeal the plea of the final rulings), as article (25) of the law no.(13) of 2010 has violated the principle of equality between citizens in obtaining compensation for the property taken from them listed in article (14) and (19/6th) of the constitution, therefore the mentioned article contradicts the mentioned principle and violates article (14, 19/6th) of the constitution also contradicts the principle of plea of rulings stated in the law of evidence no.(107) for 1979 the amended. As the constitutional provisions have the superiority in the implementation, therefore the text of article (25) of the Property Claims Committee law no.(13) for 2010 consider annulled for violating the constitution according to article (14, 19/6th) of it, the F.S.C. decided that it is unconstitutional, the decision was issued on 4.12.2013.