

In The Name Of God, Most Gracious, Most Merciful

**Republic of Iraq
Federal Supreme Court
Ref.11 /Federal/Media/2014**



Kurdish text

The Federal Supreme Court has been convened on 4/5/2014, headed by the judge Madhat Al-Mahmood and membership of judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabndi, Abood Salih AL-Tememi, Michael Shamshon Qas Georges, and Hussein Abbas Abu Al-Temman, who authorized in the name of the people to judge and they made the following decision :

The Plaintiff: minister of finance-being in this capacity- his agent the senior manager (Kha.Alif.Nun.)

The Defendant: ICR's speaker- being in this capacity- His two agents the legal officials (Sin.Ta.Yeh.).

The Claim:

The plaintiff agent claimed that the defendant- being in this capacity- passed the Law No.(21) of 2008 (law of governorates incorporated into a region) without the approval of the executive power. Based on this, the law violates the Constitution, some of its articles contained the pension rights for the members of councils of governorates, districts, subdistricts. It was enacted without ben presented to one of the two other powers (the house of ministries, the president of Republic), especially the Constitution charged them to present law proposals to ICR for enacting. In addition, the amendment of that law added financial burdens to the treasury. Based on this, he requested to decide the unconstitutionality of the third item from the article (18) from the first amendment for the law of governorates incorporated into a region for what relates to pension rights. The court had been completed its

procedures, then a day was selected for the argument, and both parties' agents attended, so the argument started publicly and presently. The plaintiff agent repeated what included by the case petition and requested to decide based on it. The defendant two agents repeated what included by their answering draft which dated 9/2/2014 and requested to reject the case for the reasons included by the draft. Both parties repeated their saying. Whereas nothing left to say, the court made both the end of the argument and the decision understood publicly.

The Decision:

During the scrutiny and deliberation by the FSC, it found that the plaintiff agent requested in his case petition to decide the unconstitutionality of the third item from the article (18) from the first amendment for the law of governorates incorporated into a region for what relates to pension rights for the members of councils of governorates, districts, subdistricts. It is noticed that that the unified law of retirement No.(9) of 2014 item (1st) from the article (38) stipulated to annul all the legal texts included by legislations and orders which decided for the retired or the one who deserves a retirement salary or payment contrary to the law, one of these legislations is the law of governorates incorporated into a region No.(21) of 2008 (amended) which decided pension rights for those covered by its provisions. Since the unified law of retirement No.(9) for 2014 became valid from (1/1/2014) based on the article (42) from it and the challenged law by its unconstitutionality became annulled according to the above law, the case of the plaintiff must be rejected from this point. The FSC decided to reject the case for the reasons above and to burden the plaintiff all the expenses and fees of the advocacy from both agents of the plaintiff, amount of hundred thousand Iraqi dinars divided between them equally. The decision had been issued unanimously and presently and got understood publicly on 4/5/2014.