



The Federal Supreme Court (FSC) has been convened on 19.11.2018, headed by the Judge Madhat Al-Mahmood and the membership of Judges Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Amed Baban, Mohammed Saib Al-Nagshabandi, Abod Salih AL-Tememi, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temmen, Mohammed Rajab Al-Kubaise who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (Jim,Ra,Jim) – Head of the Iraqi trading chambers / being in this capacity - his agents the barristers (Kha,Alif,Mim) and (Alif,Ain,Ain).

The Defendant: Speaker of the ICR / being in this capacity - his agents the legal officials , the manager (Sin,Ta,Yeh) and the assistant counselor (Ha,Mim,Sin).

The Claim

The Plaintiff's agents claimed that the Defendant being in this capacity whom took place of the revolutionary leadership council (dissolved) which issued in that time the law No.(50) for year 2002, the first amendment law of the Iraqi union trading chambers law No.(83) for 1989. The articles of the aforementioned amendment conflict with the articles of the valid Constitution, some of these articles are (2/Beh), (20) and (25). In order to grant the opportunity for all workers in the commercial sector to join the elections of board of directors for Iraqi trading chambers and to grant them opportunity to be nominated and elected, according to the principles of the Constitution and the Democracy. The Plaintiff requested to issue the decision to annul the amendment law No.(50) for the 2002. The Defendant had been notified / being in this capacity by the case petition and its documents, so his both agents answered it by a draft dated on 22.7.2018, and they listed in it this draft that the plaintiff claimed that these amendments articles are conflicting with the provisions of the Constitution and he didn't clarify the texts that conflict with the Constitution and how its violate it, but he ascribed the violation on the whole of law. He mentioned that his challenge is to grant all the workers the opportunity to join in the elections of board of directors). The Defendant said that from reviewing the text (challenge subject), we didn't find a violation

for the principles of the Constitution and the democracy, and the law is still valid and consider as a legislative choice. Both agents of the defendant requested to reject the case. On the set day for the argument both parties has been called upon, the agents of the plaintiff and the defendant attended and the argument has been proceeded publicly. The Plaintiff agents repeated the case draft and requested to judge according to it, the Defendant agents repeated their defenses and requested to reject the case. The court has end the argument and issued the following decision publicly.

The Decision

During the scrutiny and deliberation from the FSC, the court found that the Plaintiff challenge the first amendment articles for the Iraqi union of trading chambers law No.(50) for 2002 because of unconstitutionality, which amended the articles (4) and (12) from the original law No.(43) for 1989 for its violation and conflicting with the provision of the Constitution, the amendment is issued under the former regime, the Plaintiff requested to issue the decision of annulling the amendment to grant the opportunity for the participants in the elections of board directors of the trading chambers for all workers in the commercial sector to grant them opportunity to be nominated and elected. The Plaintiff didn't clarify the Constitutional articles which conflict with the text of the first amendment which is challenged. Whereas challenged amendment didn't prohibit any trader from nomination for the union, as it didn't prohibit any one from joining the elections, because the amendment doesn't violate the valid constitution as well as it considered a legislative choice. So the case is lacking to its legal substantiation, and must be rejected. The court decided to reject the plaintiff's case and to burden him all the expenses and fees of the advocacy for agents of the defendant amount of one hundred thousand Iraqi dinars. The decision has been issued decisively, unanimously and according to the provision of article (94) from the constitution and the article (5) from the FSC law No.(30) for year 2005 on 19.11.2018.