



The Federal Supreme Court (F S C) has been convened on 2.5.2018 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-Nagshabandi, Aboud Salih Al-Temimi, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (ha.jim.kaf.ra)- General Secretary of AL-wafa'a Iraqi National party/ being in this capacity – his agent the barrister (alif.fa.ain.ra).

The Defendant: the Speaker of the ICR/ being in this capacity- his agents director of the legal department (sin.ta.yeh) and the legal consultant assistant (heh.mi.sin).

The Claim

The agent of the plaintiff claimed before the FSC in the case No. (140/federal/2017) in the petition of his case that the ICR issued the law No. (45) on (12.2.2013) and the law did not take in consideration the Republic of Iraq constitution for 2005 in what related to the provisions of article (18/4) of it which includes everyone who assumes a senior, security or sovereign position must abandon any other acquired citizenship. As well as it is contradicts with provisions of article (9) clause (4th) of Iraqi citizenship law No. (26) for 2006, whereas article (8) of ICR elections law had ignored of intended to not take in consideration for implementing the constitutional article abovementioned by not placing the condition of abandoning the acquired citizenship of the candidate as an obligatory condition for candidate as a Representative in the ICR. Whereas the monitory on the

constitutionality of the valid laws and regulations is a competence of the FSC according to provisions of article (93/1st) of the constitution, therefore, he is challenging provisions of clause (8th) of ICR elections law because it contradicts with the core of article (18/4) of Republic of Iraq constitution for 2005 (an Iraqi may have multiple citizenships. Everyone who assumes a senior, security or sovereign position must abandon any other acquired citizenship) with provisions of article (9/4) of Iraqi citizenship law No. (26) for 2006 which stipulated on (Iraqi who acquire another citizenship must not assuming a senior, security or sovereign position, but if he abandon the acquired citizenship). Whereas article (9) of citizenship law is law by itself, and to remove this contradiction with the ICR elections law, therefore, the agent of the plaintiff requested from the FSC to judge by obliging the defendant to add the abandoning condition of acquired citizenship for Iraqi whom acquired another citizenship to article Eighth of ICR election law as a condition of membership conditions for the ICR, and to burden the defendant the case's expenses and advocacy fees. The agents of the defendant answered the petition of the case by an answering draft dated on (12.27.2017) they requested in it to reject the case of the plaintiff, and to burden him all the expenses and advocacy fees. The competencies of the FSC were listed in article (93) of the constitution, whereas it were listed exclusively not for example, as reason for the plaintiff's request to oblige the ICR to add a clause, this means and amendment of the law texts and legislative interference. This matter regarded out of the honorable FSC competence. After answering the petition of the case, and by relying on provisions of article (2/2nd) of the FSC bylaw No. (1) for 2005, a date for pleading was set, so, the agent of the plaintiff the barrister (alif.fa.fa) attended to the power of attorney which attached to the dossier of the case, as well as the agents of the defendant the jurist officials attended (sin.ta.yeh) and (heh.mim.sin) according to their official power of attorney which attached to the dossier of the case. The public in presence of both parties pleading proceeded. The agent of the plaintiff repeated what listed in the petition of the case, and requested to judge according to it with burdening the defendant the case's expenses and advocacy fees. As well as the agents of the defendant repeated what

listed in the answering draft, and requested to reject the case with burdening its expenses and advocacy fees. Therefore, whereas nothing left to be said, the end of the pleading made clear and the decision recited publicly.

The decision:

After scrutiny and deliberation by the FSC, the court found that the agent of the plaintiff in the petition of his case requests from the FSC to judge by obliging the defendant the Speaker of the ICR/ being in this capacity to add the condition of abandoning the acquired citizenship of Iraqi who acquired another citizenship from candidate as a member of the ICR according to article Eighth of the ICR elections law No. (45) for 2013 as condition of council membership conditions in addition to the required conditions from the candidate for the ICR membership corresponding to the text of article (18/4th) of the Republic of Iraq constitution for 2005. The FSC finds that its competencies are restricted in article (93) of the Republic of Iraq constitution for 2005 and in article (4) of the FSC law No. (30) for 2005 which is it trying the issued legislations and take a decision in its constitutionality or unconstitutionality, and not those which were not issued in spite of the constitution obliged to issue it. Whereas this matter is not one of its competencies, or adding a legal texts on legal texts in the valid laws, and what the plaintiff requested in his case requires a legislative amendment for article Eighth of ICR elections law No. (45) for 2013. This matter is a competence of the ICR, therefore, trying the subject of the plaintiff's case is not a competence of the FSC, which requires to reject it. The FSC decided to judge by rejecting the plaintiff's case for incompetence, and to burden him the expenses of the case and the advocacy fees for the agents of the defendant the jurist officials (sin.ta.yeh) and (heh.mim.sin) amount of one hundred thousand Iraqi dinars divided between them equally. The decision issued decisively, unanimously and recited publicly on 2.5.2018.