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The Federal Supreme Court (F S C) has been convened on 1.29.2018 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 Altemmen who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: 1. Head of Iraqi National Olympic Committee/ being in this capacity.

2. (ra.ha.sin) Head of Olympic Committee.

Their agent the barrister (nun.ra).

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

### The Claim

The agent of the plaintiff claimed that coalition provisional authority in Iraq previously issued the order Ref. (2) on 27/June/2003 which related to (dissolve Iraqi entities) and it included in the part captioned (the other organizations), and clause (6) of it (National committee of Olympic athletes) because the Iraqi regime were using these entities as tools to persecute, torturing, suppressing and spread corruption in their lines. The Iraqi constitution approved in article (36) of it (practicing sport is right of every Iraqis) and this article obliged encouraging the sports and youth activities as well as care about and providing all necessary requirements, therefore, dissolving of (Olympic committee) is contradicts with the constitutional article above-mentioned, whereas the Iraqi people can't practice their right of sport which

guaranteed by the constitution without existence of a legal entity carrying out this task which is it (Olympic committee). Whereas the aforementioned committee, and according to the provisions of Global Olympic treaty: 1- is responsible of organizing the National, International, territorial and continental sport activities. Its components includes the concerned sport unions in different games, and it also caring application or sport game rules for each union. 2- The situation of sport in serving the development by promoting for a peaceful community, caring about protecting the human's dignity. 3- Practicing sport is right of human rights practicing it by Olympic principles and its rules. Whereas no law contradicts with basic rights and freedoms listed in the constitution (mim2/jim) of is shall be enacted, and no law contradicts with the constitution shall be enacted and every text lists in another legal text contradicts with it regarded void (mim13/2<sup>nd</sup>) of the constitution. Accordingly, the agent of the plaintiff requested ((to judge by unconstitutionality and annulling clause (6) of the part which titled (other organizations) of order (2) issued from coalition provisional authority if Iraq. This clause contradicts with the provisions of article (36 & 2/jim & 13/2<sup>nd</sup>) of the constitution)). The agents of the defendant/ being in this capacity replied the petition of the case in their draft dated on 12.27.2017 which attached to the case's dossier, that relying on the text of article (36) of the constitution is nonproductive in the case, whereas this article wasn't stipulating on forming a committees or bodies itself, and relying on article (13/2<sup>nd</sup>) of the constitution is nonproductive whereas the plaintiff did not prove that the order issued by coalition provisional authority which related to dissolving the Iraqi Olympic committee is contradicts with the text of article (36) of the constitution, especially that the ICR is about to enacting a new law concerns (Iraqi National committee). The ICR believes in significance of the new formation, and to guarantee settling of the legal base for sport in Iraq, therefore, the agents of the plaintiff requested to reject the case. After registering the case according to provisions of clause (3<sup>rd</sup>) of article (1) of the FSC bylaw No. (1) for 2005, and after completing the required procedures according to clause (2<sup>nd</sup>) of article (2) of aforementioned bylaw, the day 1.29.2018 was set as a date for trying the case. The court had been

convened on that date, and the agent of the first plaintiff the Head of Iraqi National Olympic committee/ being in this capacity and the second plaintiff (ra.heh.heh) the Head of the Olympic committee the barrister (nun.heh.al), as well as the agents of the defendant the Speaker of the ICR/ being in this capacity attended. The public in presence pleading proceeded, the agent of the plaintiff repeated what listed in the petition of the case, and he requested to judge according to it. As well as the agents of the defendant repeated what listed in their answering draft, and the agent of the plaintiff clarified in his illustration draft that the decision which requested to judge with its unconstitutionality had cancelled the Iraqi National Olympic committee, and it is legally does not exist anymore and he restricted his case in requesting by ((to judge by unconstitutionality of this decision)) when he relied in this request on article (36) of the constitution. The agents of the defendant answered that the title of (the Head of Iraqi National Olympic committee/ being in this capacity)) or by the name of (ra.heh.heh) the Head Iraqi Olympic committee) this committee became not exist, and they requested to reject the case for litigation. The agent of the plaintiff answered that he did not list in the petition of his case as for the second defendant the phrase (being in this capacity) and the power of attorney which affirmed in the case is personal. The court noticed that the power of attorney which given to the barrister Mr. (nun.ra) from the client (ra.ha.sin) did not add to his job title (the Head of the Olympic committee), also the court noticed existence of another power of attorney dated on 3.1.2010. The court scrutinized the litigation subject, and as long as the agent of the plaintiff requested to let the second plaintiff (in his personal capacity) and deleting the job title listed next to his name (the Head of Olympic committee), therefore, the court decided to proceed the case, and the agents of the defendant requested a clarification from the agent of the plaintiff about interest of his client (ra.ha.sin) from initiating this case by requesting unconstitutionality of dissolving the Iraqi Olympic committee. The plaintiff's agent testified that his client has an interest, and for this reason he initiated this case. Both parties repeated their sayings, and 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 plaintiff claims in the petition of his case, previously coalition provisional authority in Iraq issued order No. (2) On 27/June/2003 which related to (dissolve Iraqi entities) and it included in the part titled (the other organizations) and in clause (6) of it ((Iraqi National Olympic committee)). And because he was not satisfied of that, his agent proposed to initiate this case challenging clause (6) of order (2) for 2003 abovementioned, and he requested to judge by its unconstitutionality and annulling it for its violation to articles (36 & 2/jim & 13/2<sup>nd</sup>) of the constitution according to the detail listed in the petition of the case. The FSC finds that dissolving Iraqi Olympic committee was done according to order No. (2) Issued from coalition provisional authority in Iraq dated on (27/June/2003) which included other dissolved entities. These entities were exploited by Ex-regime to serve its illegal purposes in suppressing and torturing Iraqi people, and the challenged unconstitutional text does not violates provisions of article (36) of the constitution which obliged the state to care and encourage the sport and the athletes, whereas this article did not determine an entity or restricted that on a specific committee to carry out this task. As well as the challenged decision did not violates articles (2/jim) and (13/2<sup>nd</sup>) of the constitution whereas it is possible to reestablish Iraqi Olympic committee according to a new frames corresponds with the democratic course which Iraq moved on after the fallen of the regime according to the provisions of International Olympic treaty. This matter was confirmed by the agents of the defendant/ being in this capacity in their answering draft because the ICR is about to enact a law concern (Iraqi National Olympic committee) to ensure settling of legal sport activities in Iraq. Accordingly, this case is lacking to its constitutional and legal substantiation, therefore, the court decided to reject and to burden the plaintiff the case's expenses and advocacy fees for the agents of the defendant/ being in this capacity the director in the legal department of the ICR (sin.ta.yeh) and the legal consultant assistant (heh.mim.sin) amount of one hundred thousand Iraqi dinars. The decision issued unanimously according to provisions of article (94)

of the constitution and article (5/2<sup>nd</sup>) of the FSC law No. (30) for 2005 and made clear publicly on 1.29.2018.