

**In The Name Of God, Most Gracious, Most Merciful**

**Republic of Iraq  
Federal Supreme Court  
Ref.14 /Federal/Media/2014**



**Kurdish text**

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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.) and (Heh.Mim.Sin.)

**The Claim:**

The plaintiff agent claimed that the defendant enacted the law of national assembly No.(3) of 2005 without taking the approval of the government, this law –in some articles- included the retirement's rights of the national assembly members. The plaintiff claimed that this law violates the Constitution because the law of the state for the transitory period granted the national assembly members the right to present laws' proposals without presenting bills. In addition to this reason, there is another reason relates to the pension fund of the government employees which is self-funded. For the above, the plaintiff requested from the court to decide the unconstitutionality of the third clause from the article (6) of the law of the national assembly No.(3) of 2005 (amended) which relates to the retirement's rights for the national assembly members. The case had been registered, and the procedures were completed. Then a day for the argument was selected, So the

agents of both parties attended, and the argument started publicly and presently. The plaintiff's agent repeated his previous requests, so did the two agents of the defendant repeated what got included in their answering draft dated on (19/2/2014). also, they requested from the court to reject the case for the reasons which have included in it. Whereas nothing left to say, the court made the end of the argument understood, and the decision was understood in public.

### **The Decision:**

During the scrutiny and deliberation by the FSC, the court found the plaintiff's agent requesting in his case petition the decision of the unconstitutionality of the clause (3<sup>rd</sup>) of the article (9) from the law of the national assembly No.(3) for 2005 which relates to the retirement's rights of the national assembly members, it is made clear that the unified law of retirement No.(9) for 2014 in the item (1<sup>st</sup>) of the article (38) stipulated to annul all legal texts that have included in orders and legislation which decides for the retired or the one who deserves a retirement's salary or payment contrary to the law. One of these legislations is the law of national assembly No.(3) for 2005 which decides retirement's rights to those covered by its provisions. Whereas the unified law of retirement No.(9) of 2014 became valid from 1/1/2014 based on the article (42), and the challenged law by its unconstitutionality became annulled according to the aforementioned law, the plaintiff's case must be rejected. So, the court decided to reject the case and to burden the plaintiff all the expenses and fees of the advocacy for the defendant two agents, the legal officials (Sin.Ta.Yeh.) and (Heh.Mim.Sin.), amount of hundred thousand Iraqi dinars divided between them equally. The decision was issued unanimously and presently, it was understood publicly on 4/5/2014.