

Republic of Iraq
Federal Supreme Court
Ref. 153 /federal /2019



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 27/1/2020 headed by the Judge Madhat Al-Mahmood and the membership of Judges Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temmen and Mohamed Rajab Al-Kubaisy who are authorized in the name of the people to judge and they made the following decision:

The plaintiff: the general manager of the General Company for Copper and Mechanical Industries/ being in this post - his agent the attorneys Anwar Faleh Muhamad and Lubaid Muhamed Latef.

The defendant: The speaker of the Iraqi council of representatives (I.C.R.)/ being in this post- his agents the legal advisor Haytham Majid Salim.

The claim:

The agents of the plaintiff claimed before the F.S.C. in the lawsuit No.(153/federal/2019) that the defendant has issued the Law of Military Industry committee No. (25) of 2019, article (13) of it stipulates that (1. Disengaging the link between the General Military Industries company and the General Copper Industries company from the ministry of Industry and Minerals, and to be

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

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linked to the establish committee according to the provisions of this law, their rights, obligations, assets and employees shall be transfer to the committee, excluded from that the residential compounds which to be linked to the municipalities that it is within its borders) to the latest, as the end of the text referred to (... excluded from that the residential compounds which to be linked to the municipalities that it is within its borders) and because this exclusion cause harm to the company of the plaintiff as the residential compound considered as free-hold property as plot, building, and assets for the company according to the attached documents, as it was built to serve the company because it is of the productive companies that are fare away from the center of the cities which requires the presence of the employees near to it, and most of the company employees are from the residents of the compound, and managing the compound with it service is done by the housing department of the company, for all the aforementioned, and because this text was not present in the draft law when it was submitted to the general secretariat of the council of ministers and discussed on the State Council by the legal representative of the ministry, and because it is harms the company interest serious damage therefore the agents of the plaintiff requested the F.S.C. to annul the mentioned legal text (the exception), and to burden the defendant the expenses and the advocacy fees. The agent of the defendant responded to the case petition with the answering draft dated on 12/12/2019 stating that

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the I.C.R. under article (61/1st) of the constitution has the jurisdiction to enact federal laws including the law the subject of the lawsuit, so there is no constitutional violation by that and it represent a legislative choice, and requested to reject the lawsuit and to burden the plaintiff/ being in this post the expenses and the advocacy fees. The court scheduled a date for the argument, on that date the agents of the plaintiff has attended, and attended for the defendant his agent, under their official power of attorney linked to the case petition and continue with the argument in presence and public, the plaintiffs agent repeated the case petition and requested to judge according to it, the agent of defendant repeated the answering draft and requested to reject the lawsuit. During scrutiny, the court found that the case is complete for reasons of judgment then decided to close the argument and issued the following decision publicly in the session.

The decision:

During scrutiny and deliberation by the F.S.C. the court found that the agent of the plaintiff requested in his case petition the F.S.C. to rule the annulling the exclusion stated in the last part of article (13/1st) of the Law of Military Industry committee No. (25) of 2019, which stipulates that (disengaging the link between the General Military Industries company and the General Copper Industries company from the ministry of Industry and Minerals, and to be



linked to the establish committee according to the provisions of this law, their rights, obligations, assets and employees shall be transfer to the committee, excluded from that the residential compounds which to be linked to the municipalities that it is within its borders) as the residential compound considered as free-hold property as plot, building, and assets for the company, and because this text was not present in the draft law when discussed before the State Council and for other reasons listed in the case petition. The F.S.C. found that transferring official real estate from the name of an official body to the name of another official body is a legislative option, and it falls within the jurisdiction of the Council of Representatives that are stipulated in article (61/1st) of the constitution and does not contain a constitutional violation, whereas it does not constitute a new burden on the annual budget, and a mathematical settlements can be made for that, therefore this lawsuit is not based on substantiation of the constitution and the law, and it is binding to be rejected. for the aforementioned, the court decided to reject the lawsuit and to burden the plaintiff/ being in this post the expenses and advocacy fees for the agent of the defendant amount of one hundred thousand Iraqi dinars. This decision has been issued unanimously and final according to the provision of article (94) of the constitution and article (5/2nd) of the F.S.C. law No.(30) of 2005 and issued publicly on 27/1/2020.