



The Federal Supreme Court has been convened on 9.12.2018 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-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 assistant counselor (Jim,Mim,Sin).

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

The Claim :

The Plaintiff agent claimed that the Defendant/being in this capacity enacted (AL-Iraqia commission for dependence) No.(78) for without the input of the government as if it able to meet its obligations which is imposed on it by legislation of the article (10/2nd) from the aforementioned law which stipulated ((The commission be made of following : Alif- what allocate for it from the federal general budget for the government on necessity)). That obligate the government to allocate a finance resources for the commission from the general budget of the government for a period not exceed two years. So the ICR made an amendment in the aforementioned article (10/2nd) without queries from the government. or its approval about the aforementioned amendment before made its amendment procedures. The plaintiff agent added in the case petition that the above violates the FSC decision No.(21) for 2015 which obliged the ICR to ((Sending the laws proposals which make a finance obligations to the government to study it and make clear the opinion in what listed in it, otherwise it considered as unconstitutional laws)). This amendment violated what the constitution stipulated it in the article (62/2nd) of it . for the above reasons the plaintiff agent requested :

1. the judgment of the article text unconstitutionality from AL-Iraqia commission for dependence because its violation for the constitution

provisions and what the iraqi judiciary constitutionality settled on, because it cost the exchequer of the government a financial encumbrances that cannot be afforded.

2. the retention of presenting any other defenses or challenges according to any developments in the case.

3. burden the Defendant the expenses of the case and fees of the advocacy. The Defendant agents answered on the case petition with following : the ICR didn't make an amendment for the challenged text, the text remained as it was in the government project for allocate a resources for the commission from the government, the allocation shall be done on necessity but the challenged text made the allocation for period not exceed two years which mean it determined the allocation with specific period. the ICR has the right of laws legislation according to the article (71/1st) from the constitution and the challenged text is a legislative option. For the above the Defendant agents requested to reject the cas. After recording the case according to the provisions of the clause (3rd) from the article (1) from the FSC's by law No(1) for 2005, after the requested procedures has been completed according to the clause (2nd) from the article (2) from the aforementioned system, the day 9.12.2018 appointed as a date for the argument. The court has been convened both agents of the Plaintiff and Defendants attended and the public present argument has been started. The plaintiff agent repeated the case petition and requested the judgment according to it. The Defendant agent answered him by repeating the answering draft and requested to reject the case. The parties agents have nothing to add on their drafts so the case has been completed for the decision reasons the end of the argument has been made and the judgment decision has been recited publicly in the session.

The Decision :

During scrutiny and deliberation from the FSC the court found that the Plaintiff agent/being in this capacity claimed that the Defendant enacted (AL-Iraqia commission for dependence) No.(78) for without the input of the government and its approval, he made the mentioned law in the article (10/2nd) of it, a part of (AL-Iraqia commission for dependence) resources of what allocate for it from the government budget for period of two years, disputing the government project which made the allocation of those resources on necessity. That costs the government a financial encumbrances which make it not able to meet its obligations. For the plaintiff's agent isn't convinced , he initiate a challenge for the article (10/2nd) from the law of the national commission for dependence No.(78) for 2017 which aforementioned, he requested the judgment of its unconstitutionality for the listed reasons in the case petition. The FSC found

that the article (10/2nd) from the law of AL-Iraqia commission for dependence stipulate (the commission resources are made of : Alif. what allocate for it from the federal general budget of the government for a period not exceed two years.) whereas making a part of the resources of AL-Iraqia commission for Dependence what allocate for it from ((the federal general budget of the government) for a period of two years will oblige the government exchequer to allocate those resources even in case of not achieving the demanding necessity which burden the exchequer by a financial encumbrances make it not able to meet its obligations and that's violates the article provisions (62/2nd) from the constitution and what the Iraqi constitution judiciary settled on for this matter, one of it is the FSC decision No.(21/Federal/2015) which obliged the ICR (Sending the laws proposals which make a finance obligations to the government to study it and make clear the opinion in what listed in it, otherwise it considered as unconstitutional laws). For the above the FSC decided the unconstitutionality of the article (10/2nd) from the law of AL-Iraqia commission for Dependence No.(78) for 2017 and to burden the Defendant all the expenses and fees of the advocacy of the Plaintiff agent amount of hundred thousand Iraqi dinar according to the law. The decision has been issued decisively and obliged for all powers relying on the provisions of the article (94) from the constitution and the article (5/2nd) from the FSC law No.(30) for 2005 and unanimously. The decision has been understood publicly on 9.12.2018.