The Federal Supreme Court (F.S.C.) has been convened on 20/1/2020 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 president of Tikrit university/ being in this post -his agent the legal representative Dr. Yonis Mahmod Karem.

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 agent of the plaintiff claimed in the case petition that his client represent a state university which is part of the general utility, and it applies a general public by spreading education, and knowledge throw the regular attendance of students in scientific and humanitarian colleges to provide the community with energies that manage life in Iraq, the I.C.R. has issued the pension law No.(26) for 2019 which determined the legal age to (63) years ((whom are covered with by the law of the university civil service from holders of certificates professor and assistant professor from referral to retirement upon reaching the legal age 60 years to 63 years are exemptions from the provisions of the legal age for referral to retirement)), whereas implementing the mentioned law above cause the plaintiff body to loss large number of the educational personnel with experience and competent, which practice teaching and supervising the students of the higher education, also it wasn’t advanced studied by the I.C.R. to clear in present and future implications that could resulted in case it was implemented, in addition that it will lead to closing some of the specified colleges and the it followed high education departments of the rare specifications which cause harm to this general utility, and disable one of the most important rights on the constitution which is the right of education listed in article (34) of it. For the foregoing the agent of the plaintiff requested the F.S.C. to rule the unconstitutionality of the law No.(26) of 2019, and to repeal the legal articles that contradicts the provision of the Iraqi constitution regard the teachers who holds the title of professor and assistant professor. After informing the defendant with the case petition, his agent responded with the answering draft dated on 5/1/2020 requesting to reject the lawsuit formally because the plaintiff has filed the lawsuit before the law become in force, as article (18) of it stated that (this law is in force from the date 31/12/2019), also the law came as legislative option for the I.C.R. according to it stipulated jurisdictions in article (61/1st) of the constitution. After completing the required procedures according to the F.S.C. Bylaw No.(1) for 2005 the date 20/1/2020 was scheduled for the argument, the court convened and call upon the parties and continue with the argument in presence and public, the plaintiff’ agent repeated the case petition and requested to judge according to it, the agent of the defendant repeated the answering draft requesting to reject the lawsuit for the reasons listed in it. 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 plaintiff the president of Tikrit university/ being in this post has challenge that the law No.(26) of 2019 first amendment law to the unified pension law No.(9) for 2014 as article (10/1st) of it has determined the referral of the employee to retirement upon reaching (60) years old, article (2/1st) of it has exemptions whom are covered with the law of the university civil service from holders of (professor and assistant professor) from referral to retirement upon reaching the legal age 60 years to 63 years, the agent of the plaintiff claimed that this amendment will cause the loss of large number of the educational personnel with experience and competent, for the mentioned reasons in the case petition he requested to rule that the law No.(26) of 2019 is unconstitutional and to repeal the articles that contradicts the provision of the constitution. the F.S.C. founds that the challenged law for being unconstitutional has stated in article (18) of it that this law shall be implemented from the date 31/12/2019, whereas the lawsuit was filed on 17/12/2019, before the law become in force, therefore considering it is out of the F.S.C. jurisdictions , as article (93/1st) of the constitution stipulates that (the Federal Supreme Court shall have jurisdiction to overseeing the constitutionality of laws and regulations in effect.) therefore the plaintiff lawsuit has been filed before the validity of the challenged law, accordingly the court decided to reject the lawsuit and to burden the plaintiff the expenses and the advocacy fees for the defendant agent amount of IQ.D one hundred thousand. This decision has been issued unanimously and final according to the provision of article (94) of the constitution and article (5) of the F.S.C. law No.(30) of 2005 and issued publicly on 20/1/2020.