



The Federal Supreme Court has been convened on 28/1/2019 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 : (HA.Jim.Kaf.Ra) the secretary general of AL-Wafaa AL-Watani AL-Iraqi entity/being in this capacity- his agent the barrister (Alif.Feh.Ain).

The defendants:

- 1.ICR speaker/being in this capacity- his two agents the legal officials, the manager (Sin.Ta.Yeh) and the assistant counselor (Heh.Mim.Sin).
- 2.The prime minister/ being in this capacity- his agent the assistant counselor (Ha.Sad).

The Claim:

The plaintiff claimed that the text of the article (18/4th) of the Constitution has allowed the multiple nationality fo Iraqi person, the person who has high seigniory or security position shall abandon any other earned nationality. This organizes by a law. Whereas the abandon of the earned nationality is a private essential condition for the seigniory positions, whereas the plaintiff according to his claim has clarified that the seigniory positions are the president of the Republic post and his vices- president, prime minister and the ministers, members of the ICR also covered all people who take acts and tasks which related to the country interest and its domination, they are the heads of the independence commission, the governor of the central bank, the governors
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and the ambassadors. The plaintiff determined his requests by the decision of the invalidity of recruitment every one take a seignior post determined by the Constitution and have another earned nationality, and to oblige the ICR members who have another earned nationality to abandon it before they did the constitutional oath of an office and to compliance the president of the republic with the Constitution when he assigns the candidate of the biggest political mass for the prime minister post. After the listing of the case and proceeding the requirement warrants. The agents of the defendants presented an answering drafts included their defense which required to reject the case for the reasons listed in it. After the case registration and appointing a date for the argument the court had been convened, both parties had been called upon so they attended and the argument had been started publicly and presently. The plaintiff agent repeated what listed in the case petition and request the decision according to it. The plaintiff agent presented two drafts dated on 27/1/2019 as an answer on the answering drafts. The defendants' agents answered that they don't have any comments on what listed in these two drafts and repeated their requests and sayings and requested the decision to reject the case for the reasons they listed. Both parties repeated their sayings and previous requests and when there is nothing left to say the end of the argument had been understood and the decision had been understood publicly in the session.

The Decision:

During the scrutiny and deliberation by the FSC, the court found that the plaintiff in his case petition and in the reciprocity drafts between him and the defendants being in their capacities he requested: the decision of the invalidity of recruitment of everyone who takes a seignior post determined by the Constitution and has another earned nationality, and to oblige the defendants to compliance with the implementation of the provisions of nationality law No.(26) for 2006, and to oblige the ICR members who have another earned nationality to abandon it before they did the Constitutional oath of an office, and to oblige the ICR to compliance with the Constitution provisions and the law when they elect the president of the republic and his

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vices, and when they ratify on the government head and members in what related to the case petition, and to oblige the president of the republic to compliance with the constitutional provisions and the law when he assigns the candidate of the biggest political mass for the prime minister post in what related to the case subject, oblige the ICR to make sure of the validity of the membership, especially those who abandon their another earned nationality, burden the defendants being in their capacities the expenses and fees of the advocacy. The FSC checked the aforementioned requests of the plaintiff, it found that it related to the applying of the provisions of the article (18/4th) of Iraq republic Constitution which allowed the multiple nationalities for Iraqi person and oblige who takes a seigniority post or high-security position to abandon any other earned nationality, it organizes by a law. And to apply the provisions of the article (9/4th) of Iraq nationality law No.(26) for 2006 which didn't allow for Iraqi person who has another learned nationality to take a seigniority post or high- security position but if he abandons his other nationality. The FSC found that applying the provisions of these articles on the case facts required clarification of the concepts and denotations of the concept (seigniority posts) (high-security position) which listed in the heart of the mentioned articles, the article (9/4th) of Iraq nationality law didn't clarify that, but the text came as general decision and didn't determine. Also for the article (18/4th) of the Constitution, it left the determination for a law issued according to it. Determination of these concepts related to the views in Iraq after the Constitution issued. This is what the FSC going to in the decision it issued on 19/1/2015 No.(100/federal/2013) it came according to the ICR request for listing to ICR (draft law of abandon the earned nationality) by the government minister for representatives council affairs, whereas the court clarifies in its decision :

((during the scrutiny and deliberation by the FSC the court found the meaning of (seigniority post) or (high-security position) which was stipulated in the article (18/4th) of the Constitution its determination related to the political views in Iraq and people who in the act are responsible to determine these posts and the extent of its effect in the general politics for the government and organize its detonations.)). And we can't rely on the jurisprudence

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opinions in this matter because it may differ in time and place, because of the deciding in these articles make a limitation on practicing some political rights and is dangerous for it, the prohibitions shall be described and determined by an accurate way for prevention of control, based on this, the Constitutional obligations required to issue the law that was stipulated by the article (18/4th) of the Constitution otherwise the provision of the mentioned article can't proceed or the article (9/4th) of Iraq nationality law which issued not according to the aforementioned article, but for uniting the private provisions of the Iraq nationality and to annul the texts which related to abortion Iraqi nationality of Iraqi person and his right to get it back as his reasons clarified that. All mentioned above apply to the requests listed by the plaintiff in his case petition and his other drafts. For the above reasons, the court decided to reject the case of the plaintiff and burden him all the expenses and fees of the advocacy of the defendant's agents amount of hundred thousand Iraqi dinars divided between them according to the law. The decision issued unanimously, decisive relying on the article (5) of the FSC law No.(30) for 2005 and the article (94) of the Constitution of Iraq republic and had been understood publicly on 28/1/2019.