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The Federal Supreme Court has been convened on 10/4/2019 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 : (Sad.Ha.Mim.Beh)/ head of AL-Basra governorate council /being in this capacity – his agent the legal official (Kha.Heh.Ghain).

the defendants :

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

The Claim:

The plaintiff agent claimed (head of AL-Basra governorate council /being in this capacity), that the ICR has already issued the federal budget law No.(1) for 2019, and the article (2/1<sup>st</sup>/5) stipulated ((a percentage of 5% of the produced crude oil incomes in the governorate shall be adopted and amount of 1000000000 dinars (trillion dinars) shall be allocated for projects of the producing governorates ....)). It listed in the aforementioned article, percentage of 5% of the produced crude oil income in the governorate shall be adopted, but the legislator allocated (trillion dinars) for all oil producing governorates, as it clarified in the text of the aforementioned article. The legislator by his retreated and allocates amount of (trillion dinars) for all petroleum producing governorates he aggrieved the rights of AL-Basra

governorate by equating it with other governorates, because the origin of the determined aforementioned amount has come less than the required allocations for AL-Basra governorate so how is that , the legislator included the remain crude oil producing governorates in this amount ? for the above the plaintiff agent requested from the FSC and relying on the provisions of the article (93/3<sup>rd</sup>) of the Constitution to ((interfere and to issue the suitable decision relying on that the origin of the percentage of 5% of the exported crude oil incomes from AL-Basra governorates)). The first defendant agent/being in this capacity answered on the case petition that the mentioned percentage in the case was determined in the budget draft law which presented by the cabinet according to provisions of the articles (80/4<sup>th</sup> and 110/3<sup>rd</sup>) of the Constitution. The plaintiff agent refers to violation (of the challenged text) for the law of the governorates not organized in province No.(21) for 2008, this is out of the FSC competences which determined in the article (93) of the Constitution, to hear in the constitutionality of the law not its violation for other laws, for the above the first defendant agents requested to reject the case. The second defendant agent (prime minister/being in this capacity) answered on the case petition that the authority of his client was determined in the article (80/3<sup>rd</sup>) of the Constitution to prepare and submit the drafts of the laws to the ICR to legislate it, it's not competence for laws legislation. Based on this and relying on the provisions of the article (4) of the civil law arguments No.(83) for 1969 (amended) the litigation is not to his client because he is not the party which issued the challenged article, he requested to reject the case from litigation point. After case registration according to the provisions of the clause (3<sup>rd</sup>) of the article (1) of the FSC bylaw No.(1) for 2005, after completing of the required procedures according to the clause (2<sup>nd</sup>) of the article (2) of the mentioned regulation, the day 10/4/2019 appointed as a date for the argument. The court had been convened on that day so the plaintiff agent attended and the first defendant(ICR speaker) agents attended and the second defendant (prime minister) agent attended according to the attorneys that listed in the case file, the plaintiff attended beside his agent. The plaintiff agent repeated the case petition and

requested the decision according to it and presented an answering draft for the defense of the defendants in the case, he summarized it. The defendants' agents answered that they have no comments, during scrutiny the court found the case has become complete for the deciding reasons. The end of the argument had been decided 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 agent (head of AL-Basra governorate/being in this capacity) claimed that the ((ICR has already issued the federal budget law No.(1) for 2019, and the article (2/1<sup>st</sup>/5) stipulated ((a percentage of 5% of the produced crude oil incomes in the governorate shall be adopted and amount of 1000000000 dinars (trillion dinars) shall be allocated for projects of the producing governorates ....)). As for the legislator texted in that article too ((amount of trillion dinars allocates for the project of the producing governorates of the origin aforementioned allocations in the item (1<sup>st</sup>/1) of the article (2) ). The act of the legislator to allocate the amount of trillion dinars for all the governorates which produce oil as it clarified in the text of the aforementioned article. So he aggrieves the right of AL-Basra governorate by equating it with other governorates. Because the origin of the determined amount for AL-Basra governorates has come less than the required allocations for it.)) for the above the plaintiff agent initiated the case before the FSC requesting ((interfere and to issue the suitable decision relying on that the origin of the percentage of 5% of the exported crude oil incomes from AL-Basra governorates)). The FSC found that hearing in the plaintiff request in this presented adaptation is out of its competences that was stipulated in the article (93) of the Constitution and the article (4) of its law No.(30) for 2005, the article subject of challenging is listed in the law that issued by the ICR if it contains violation for another text of law as the plaintiff mentioned ,it is the law of governorates not organized in province No.(21) for 2008 , hearing in this is out of the FSC competence that was stipulated in the article (93/1<sup>st</sup>) it's to oversight on the Constitutionality of laws and valid regulations if there is any violation of text to the Constitution.

Based on this the court decided to reject the case of the plaintiff from the

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competence point and to burden him all the expenses and fees of the advocacy of the defendants' agents amount of hundred thousand dinars distributed according to the law. The decision issued decisively according to the article (94) of the Constitution and the article (5) of the FSC law No.(30) for 2005 unanimously and had been understood publicly on 10/4/2019.

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