

The In the name of god most gracious most merciful

Republic of Iraq  
Federal supreme court  
Ref. 195/federal/media/2018



Kurdish text

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The Federal Supreme Court (F S C) 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-nagshabandi, Aboud Salih Al-temimi, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temman who authorized in the name of the people to judge and they made the following decision:

Plaintiff : (mim. ain. ain.) his agent (ain. mim. sad.)

Defendant : 1- Barham Ahmed Saleh/ President of the Republic of Iraq/  
being in this capacity his agent the Legal Advisor (alif. sin.  
mim.).

2- Adel Abdul Mahdi/ Head of Council of Ministers/ assigned  
/being in this capacity his agent the Legal Advisor (ha. sad.)

### Claim

The plaintiff's agent claimed that the first defendant, the President of the Republic /being in this capacity had ordered the second defendant /being in this capacity to form the Council of Ministers on 2/10/2018, Since article (18/4<sup>th</sup>) of the Constitution had been passed on multiple nationality and a sovereign position or high-level national had to renounce another acquired nationality, regulated by the law since the second defendant /being in this capacity possessed French nationality and his mandate to form the Council of Ministers was a constitutional breach and the plaintiff required a judge of proof that

the second defendant From the waiver of the second defendant for abandoning the acquired French nationality and otherwise judgment on unconstitutionality and cancelling the order of the President of the Republic to assign the second defendant to form the Council of Ministers after registering the case and the procedure for the notifications, the two agent of the defendants /being in this capacity answer draft individually they requested that the case be rejected for the reasons given in the answer draft. After that, a date for the argument was set and the parties were informed, and on the day of the argument, the court was formed and the parties were invited to attend and the agent of the plaintiff repeated his statements and previous requests, He requested the judgment in accordance with the petition and the agents of the defendants repeated their requests and their previous statements and requested the judgment to reject the case for the reasons that were mentioned the end of argument has been made clear and the decision had made clear public.

### The Decision:

When scrutiny and deliberation by FSC fond that the plaintiff has in his petition, explained that the first defendant the President of the Republic /being in this capacity had assigned the second defendant the prime Minister /being in this capacity, to form the Council of Ministers. Article (18/4<sup>th</sup>) of the Constitution a foreign national may not hold a sovereign position and shall be required him to renounce his acquired nationality and to regulate it by law. Article (8/4<sup>th</sup>) of the Iraqi Nationality Law No. (26) of 2006 ruled the same judgment mentioned in article (18/4<sup>th</sup>) of the Constitution. The plaintiff requested from the FSC to proof the waiver of the second defendant by the Prime Minister of his acquired French nationality and otherwise the ruling that his assignment was unconstitutional and the order of the first defendant was revoked by the President of the Republic /being in this capacity to form the Council of Ministers. The FSC

checked what was said in the petition and found that the subject of the renunciation of foreign nationality by an Iraqi who had a high sovereign position or sovereignty was provided for in article (18/4<sup>th</sup>) of the Constitution and the article (9/4<sup>th</sup>) of the Iraqi Nationality Law, however, the constitutional article in question required that the renunciation of foreign nationality acquired by law be enacted in application of the provisions of the mentioned article (18/4<sup>th</sup>) of the Constitution, this is required by the proper and accurate application of these rules, since the above-mentioned constitutional and legal articles did not specify what (sovereign positions) or (high security) and Tina did not say how and when to renounce acquired nationality This was left to the law which was promulgated as rules in the provisions of article (18/4<sup>th</sup>) of the Constitution, the provision of which could be made only by the promulgation of that law, which was the court's decision of 19/1/2015 No. (100/federal/2013) ((When scrutiny and deliberation by FSC found that the expression of the (sovereign) or (high security) position provided for in article (18/4<sup>th</sup>) of the Constitution is determined by the political directives in Iraq and by those who determine these positions and the extent to which they affect the public policy of the state and regulate their meanings in accordance with the law.)) that decision was made at the request of the House of Representatives on the occasion of the receipt of the (draft law on renunciation of acquired nationality) from the State Department for House Affairs to the House of Representatives. On the other hand, the plaintiff's request to the FSC to prove the second defendant's abandonment of the French nationality acquired by the Prime Minister /being in this capacity is outside the jurisdiction of the FSC as defined in article (4) of its law No. (30) of 2005 and the article (93) of the Constitution of the Republic of Iraq. Accordingly, the judge decided to reject the plaintiff's case and to charge the charges and the fees of the attorneys of the defendants and the two hundred thousand dinars to be distributed according to the law. The

unanimously decisively on the provisions of articles (5) of the FSC Law and (94) of the Constitution and was made clear public on 28/1/2019.