



The Federal Supreme Court (F S C) has been convened on 5.12.2018 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-nagshabandi, Aboud Salih Al-temimi, 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:

<u>Plaintiff</u> / 1. Retired lawyer (qaf. sad. ha.)	} Their agent (ain. sad. ain)
2. (ghain. feh. ain. feh.)	
3. Retired lawyer (nun. mim. ain.)	
4. Lawyer (heh. ain. mim.)	

Defendant / President of the Bar / being in this capacity his agent
(heh. ha. heh. kaf.)

Claim:

The plaintiff claimed that the Bar Association has already issued a decision date 5/5/2016 claiming that the decision was issued by the General Assembly of the union decided in it: **First:** Make the pension of lawyers (500,000 five hundred thousand dinars) per month instead of (1000,000) one million Iraqi dinars for the economic conditions of lawyers and take into account the budget fund. **Second:** Implement paragraph (1st) above as from the date of 1/6/2016. **Third:** The pension shall be reconsidered one year after the decision of the General Assembly above. This is stated in the letter of the Bar Association No. (3259) dated 8/5/2016 to the body of the retirement fund to abide by it and there is a note on this decision:

First: This decision violates the rights of all Iraqi lawyers, including retired lawyers and their families. **Second:** The decision is unconstitutional because the constitution, including the rights of Iraqis. **Third:** The union by its decision has been violated by the Constitution and the law. **Fourth:** Reduction of salaries at this level after direct impact on retired lawyers and their families, widows and minors. **Fifth:** The FSC is the highest judicial authority in Iraq and a guardian of the Constitution and non-violation. They asked to appoint a day to plead and judge the unconstitutional decision of the union date 5/5/2016 The defendant will charge the costs and legal fees. They added that the former captain was the one who did so and there is a jurisprudential base ((Who sought in the lack of what was on his hands and sought to return it)) and after registration of the case to this court according to the paragraph (3rd) of the article (1) of bylaw of it, the answer the respondent replied responded in particular to a reject the case for the following reasons: **First:** The decision of the Bar Council was issued on the basis of the decision taken by the General Assembly of Lawyers, which is the competent authority to determine the rates of annual subscription and the determination of the highest pensions. The Association of Lawyers' Pension Fund relies on the contributions of lawyers and the General Authority has the authority to increase or decrease the pension according to the budget of the Fund. **Second:** That the decision of the Council of the Bar was not immune to appeal before the Federal Court of Cassation in accordance with the provisions of article (3/166) of the law of the law and submit an appeal on the basis of articles (167 & 168) of the Lawyers Act and the jurisdiction of the FSC is provided in article (93) of the Constitution and article (4th) of its Law No. (30) of 2005 not including the consideration of challenges in decisions that the laws have drawn up are special ways to challenge them and after the completion of the proceedings required in accordance with paragraph (2nd), article (2), of the bylaw of the FSC. The day 5/12/2018 was appointed as a date for the argument in which the court was formed, attending the two prosecutors the lawyer (ain. ain.) and the lawyer (heh. ain.) and also the defendant's agent attended and began to

argument immanence and public. The two prosecution agents repeated the petition and asked for a ruling, according to which the defendant's agent responded to what was stated in the draft and asked to reject the case. He added that the subject of the retired lawyers is in the lawyer's retirement fund and the fund enjoys the moral personality. The court scrutinized the petition and found that it had been updated for reasons of judgment. The court decided to close the case and understand the court's decision in public on 5/12/2018.

The Decision :

For scrutiny and deliberated by FSC found the plaintiffs claimed in the petition that The Bar Association has already issued a decision on 5/5/2016 to make pensioners retired pension (500,000) five hundred thousand dinars instead of (1,000,000) one million as of 6/6/2016, which affected the rights of all Iraqi lawyers and has a direct impact on the rights of all Iraqis, especially their families of widows and minors and asked for judgment Unconstitutional decision of the Bar Association No. (1) of 2016. The defendant/ being in this capacity asked to reject the case for the reason in the answer draft the FSC found that the decision issued from the Bar Association challenge of unconstitutionality is an administrative decision issued by a civil authority to draw up the law as a way to challenge it, which is not challenged before the FSC and therefore the consideration of the case is outside the jurisdiction of the FSC provided for in article (93) of the Constitution and article (4) of its law to Unconstitutional of it No. (30) of 2005. Therefore, the FSC decided to reject the claim of the plaintiffs from incompetence jurisdiction and to charge them the expenses and issued the judgment by agreement decisively and obligated according to the article (94) of the Constitution and the article (5) of the law of FSC made clear public 5/12/2018.