



The Federal Supreme Court (F S C) has been convened on 6.2.2019 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, Michael Shamshon Qas Georges, Aboud Salih Al-Temimi and Hussein Abbas Abu Al-Temmen and who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (ra.jim.kaf) – his agent the barrister (alif.sad.yeh).

The Defendant: the Prime Minister/ being in this capacity – his agent the legal consultant (ha.sad).

The Claim

The agent of the plaintiff claimed that the defendant/ being in this capacity previously issued his decision No. (250) on (6.7.2010) which included retrieval of received amounts by people whom appointed according to a fake certificate as salaries, and to notify concerned offices to execute aforementioned decision. While this decision violates the provisions of (Iraqi Constitution for 2005) as well as interpretations by the State's Council according to principles attached to the petition of the case. He requested from the FSC to judge by unconstitutionality of the decision aforementioned which issued by the defendant/ being in this capacity, and to burden him all the expenses and advocacy fees. After registering this case according to clause (3rd) of article (1) of the FSC's bylaw, an answer from from the defendant/ being in this capacity has been received by his agent. He requested to reject the case for the following reasons: first: the jurisdiction, whereas article (93/1st) of the Constitution determined the jurisdiction of the FSC and the decision of his client (administrative). His client issued this decision according to article

(80/1st) of the Constitution. Second: as for the constitutional substantiation, whereas his client issued unconstitutional challenged decision according to its constitutional authorities stipulated in article (80/3rd) of the Constitution. After completing required procedures according to clause (2nd) of article (2) of the same bylaw, the day 6.2.2019 has been set as a date for argument. On this day the Court has been convened, the agents of both parties attended. The agent of the plaintiff repeated what listed in the petition of the case, and he requested to judge according to it. The agent of the defendant answered that he repeats what he requested in the answering draft, and he requested to reject the case. Whereas nothing left to be said, the Court decided to make the end of the argument clear, and the decision was recited in the session publicly on 6.2.2019.

The Decision

During scrutiny and deliberation by the FSC, the Court found that the agent of the plaintiff requested in his case to judge by unconstitutionality of the decision No. (250) dated on (6.7.2010) issued by the defendant/ being in this capacity which included retrieval of amounts received by people whom appointed according to a fake certificate as salaries, and to notify concerned offices to execute aforementioned decision. The FSC finds that the (challenge subject) is an administrative decision, and the law had set a method to challenge it. Therefore, trying this case is out of the Court's jurisdictions which stipulated in article (93) of the Iraqi Constitution for 2005, and article (4) of its law No. (30 for 2005). The Court decided to reject the case for incompetence, and to burden the plaintiff the expenses and the fees of the defendant/ being in this capacity agent amount of one hundred thousand Iraqi dinars. The decision has been issued decisively and unanimously according to article (94) of the Constitution. The decision has been made clear on 6.2.2019.