

(Translated from Arabic)  
IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq  
Federal Supreme Court  
Ref. 29/federal/ 2019



Kurdish text

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The Federal Supreme Court (F.S.C.) has been convened on 14/5/2019 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff : Governor of Nineve/ being in this post – his agent the assistant legal advisor Khaled Abdullah Bahaa El Din.

The Defendant: the Speaker of the parliament/ being in this post – his agent the legal officer and the assistant legal advisor Haytham Majid Salim.

The Claim:

The agent of the Plaintiff claims that the council of representative (I.C.R.) has legislated the code of the Governorates incorporate into a region No(21) for 2008, and the article (7/8<sup>th</sup>/2) of it stipulated

that (the Council of Representatives may dismiss the Governor by an absolute majority on the proposal of the Prime Minister for the same aforementioned reasons), the plaintiff considers that this text contradicts with the text of article (61) of the Constitution that related exclusively to the questioning in the I.C.R., and this is what the judgment of the F.S.C. has settled on, and that the post of the governor was not among the posts that are under the questioning, and there is another text contained in the Constitution, which is what stated in article (22/5) after the submission of the Governorate Council to the control and supervision by any ministry or party not related to a Ministry, according to that the plaintiff request to judge by repealing the text of article (7/8<sup>th</sup>/2) of the Governorate code for violating the constitution, after submitting the case and informing the defendant with a copy of its petition, who replied with his draft that dated 26/3/2019 requesting in it to reject the case for many reasons including that the plaintiff has been confuses between the dismissal of the governor according to the code of the Governorates and between the questioning that is stipulated in the Constitution and there is no link between them, and even that the constitution did not stipulate the power for the I.C.R. to dismiss the governor, but he did not prevent him from doing so, from this side, and that it has the supervision authority upon the executive authority, and that the governor is part of the executive authority. After the registration of the case, the court set an appointment to proceed with it, the court was convened and call upon the two parties, there agents has attended and proceed with the case in presence and publicly, the agent of the plaintiff repeated his previous statement and requests, and requested to judge according to the case petition, the agent of the defendant repeated his previous statement and requests, and

requested to reject the case. And where nothing left to be said the argument is closed and the decision is issued publicly.

### The Decision:

During scrutiny and deliberation by the F.S.C. the court found that the plaintiff challenged that the article (7/8<sup>th</sup>/2) of the code of the Governorates incorporate into a region No(21) for 2008 is unconstitutional, which authorize the I.C.R. to dismiss the Governor by an absolute majority on the proposal of the Prime Minister, and by reviewing the case petition we noticed that the constitution of the Republic of Iraq for 2005 did not clearly stipulate the authority for the I.C.R. to dismiss the Governor in the same time the constitution didn't prevent him from making such decision, as the article (61/2<sup>nd</sup>) of the constitution has granted the I.C.R. the supervision authority upon the executive authority, and that the governor post is part of the executive authority formation, and he is the Chief executive officer the higher in the governorate, at the level of undersecretary of a ministry as far as it related to the rights and career service under the provisions of article (24) of the Governorates code, accordingly the I.C.R. shall have the right to dismiss the governor under its supervision authority upon the executive authority on the proposal of the Prime Minister which is the direct executive officer for the general policy of the state based on the article (78) of the Constitution. The F.S.C. found that the article that is under appeal for being unconstitutional which is article (7/8<sup>th</sup>/2) of the code of the Governorates incorporate into a region No(21) for 2008, does not violate the constitution, therefore the case of the plaintiff lake its legal substantiation, accordingly the F.S.C. decided to reject the plaintiff's case and to burden him the expenses and advocacy fees

for the agent of the defendant/ being in this post the assistant legal advisor Haytham Majid Salim amount of (one hundred thousand Iraqi dinars), the decision has been issued decisively and unanimously according to article (94) of the Constitution, and issued publicly On 14/5/2019.