



The Federal Supreme Court (F S C) has been convened on 5.29.2017 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, Mikael Shamshon Qas Georges and Hussein Abbas Abu Altemmen who authorized in the name of the people to judge and they made the following decision:

Plaintiffs / 1- (faa'.aleef.faa').

2- (seen.aeen.haa').

Defendant / the Speaker of ICR/ being in this capacity/ his agent the legal official (haa'.meem.seen).

Claim

The plaintiffs claimed that the ICR on 1.2.2017 voted on the higher judicial council law and that law based on constitutional violations first of it the principle of independence of powers, which article (88) of the constitution stipulated on (Judges are independent, and there is no authority over them except that of the law. No power shall have the right to interfere in the judiciary and the affairs of justice). And because that the law was set by the executive power, which regards an interference in the judiciary power. As well as article (6) of the law stipulated on forming of the general administration of the higher judicial council, and article (7) stipulated on that this administration shall be occupied by employees having a prior master's degree distant of the judicial specialty, which may form a risk on the future of the higher judicial council. And the constitution stipulates on that the higher judicial council is the body who enact its private laws not the executive power. And that violates article (13) of the constitution and he called upon the defendant/ being in this capacity for pleading and to judge with voidance of the higher judicial council law for 2017 and to

burden him the expenses and fees. The defendant/ being in this capacity was notified with the petition of the case, so he answered it with his draft dated on 4.18.2017, where he listed that the plaintiffs did not clarify the direct status, direct and effective benefit in the legal or financial or social post of them in their case, and they did not clarify the direct independent in its elements damage which could be removed. As well as the challenged law was enacted according to the constitutional and legislative contexts according to provisions of articles (60) and (61) of the constitution and the law came as a bill according to the cabinet decision number (155) for 2016. The agents of the defendant requested to reject the case. The court called upon both parties, then the first plaintiff attended by himself and the second plaintiff did not attend in spite of he was notified by the date of the pleading. The plaintiff repeated the petition of the case and requested to judge according to it, and he added that Iraq has adopted the democratic regime and the principle of separation between powers, and the challenged law violated that. The agent of the defendant repeated what listed in his answering draft and he did not comment on what the first plaintiff clarified. Whereas nothing left to be said, the court ended the pleading, and the following decision made clear.

The decision

After scrutiny and deliberation by the FSC. The court found that the plaintiffs are challenging the higher judicial council law number (45) for 2017, pretending it is based on constitutional violations first of it that the law was set by the executive power, which violates the principle of power independence. Also it is texted in article (6) of it on forming the general administration of the higher judicial council. And texted in article (7) that these directorates should be administrated by employees having a prior master's degree. And they pretended that this law conflict with the constitution, and they request to void it. The court finds that the claims of the plaintiffs are not stated, because the bill presented by the federal judicial power, even if some amendments were done in some texts, and that was processed in case number (19/federal/2017) in its judgment dated on 4.11.2017. on the other side of the claim, the general directorates that connected to the higher judicial council, it is carry out the administrative affairs for the federal judicial power associates, not practicing the judiciary, and this text set by the federal judicial power and never intersect with the

judiciary independence. And the plaintiffs did not clarify the violation sides to the constitution. Therefore their case is not basing on legal reason, based on that the court decided to reject the plaintiffs' case, and to burden them the expenses and the advocacy fees for the agent of the defendant a sum of one hundred thousand dinar. The decision issued decisively and unanimously according to article (94) of the constitution and made clear on 5.29.2017.