

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 32/federal/media/2015



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 10/8/2015 headed by the Judge Medhat 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 Abu Al-Temmen who are authorized in the name of the people to judge, and they made the following decision:

The Request

The presidency of the Dyala Federal Court of Appeal requested to decide the legitimacy of paragraph (2nd) of article (4) of the law no.(5) for 2009, and stated that article (4/1st) of the mentioned law which is (compensation for those who have lost part of their bodies due to the practices of the former regime) has obliged the formation of committee headed by a judge and the membership of representatives for the listed parties in it, the decision that is issued by this committee characterize by the judicial capacity and it is not possible that the Governor is the reference to ratify that decisions, because that affect the principal of separation of powers stipulated in article (47) of the Iraqi republic constitution for 2005, in addition,

Federal Supreme Court - Iraq - Baghdad
Tel – 009647706770419
E-mail: federalcourt_iraq@yahoo.com
Mailbox- 55566

Achraa

that law didn't stipulate the method to challenge the decisions issued by the committee under article (4/1st) of it, in violation to article (100) of the constitution, the court of appeal conclude it request to the decision in the legitimacy of article (4/2nd) of the law no.(5) for 2009 (the amended).

The F.S.C. placed the request under scrutiny and deliberation in the session dated on 10/8/2015 and finds that the mentioned committee in this paragraph presents it decision to the competent Governor to ratify it, which means that the ratifying decision of the Governor is an administrative decision that could be challenged before the parties that are stipulated in the law like any other administrative decision. As for the committee and that it formation under the presidency of a judge, the F.S.C. consider it decision not to be an judicial decisions, because this committee include beside him four ministries representatives listed in article (4/1st) of the mentioned law. Accordingly that doesn't conflict with the provisions of article (47) of the constitution. The decision has been issued unanimously on 10/8/2015.