

In The Name Of God The Most Gracious, Most Merciful

Republic Of Iraq

Federal Supreme Court (Emblem)

(Kurdish Text)

Ref: 41/Federal/Media/2017

The Federal Supreme Court has convened in 13.6.2017, headed by the Judge Medhat Al-Mahomood and the membership of the Justices Jaefar Naser Hussain , Akram Taha Mohamed , Akram Ahmed Baban , Mohamed Saeb Al-Naqshabnde , Mikaeel Shamshon Qas Qourqis , Hussain Abbass Abo Al-timen and Mohamed Farog Mhamed Al-Sami who are authorized to judge in the name of the people. And it issued the follow decision:

The Plaintiff: (Ha'. Alf. Ha'.), his agent the attorney (Aen. Alf.).

The Defendant: The President Of The Iraqi Republic/being in this post, his agent the legal official (Fa'. Alf.).

THE CLAIM:

The agent of the plaintiff claims that article (1) of the Iraqi constitution stipulate on (The Republic of Iraq is a single federal, independent and fully sovereign state in which the system of government is republican, representative, parliamentary, and democratic, and this Constitution is a guarantor of the unity of Iraq.) and article (66) of it stipulate on (The federal executive power shall consist of the President of the Republic and the Council of Ministers and shall exercise its powers in accordance with the Constitution and the law.) and article (67) of it stipulate on (The President of the Republic is the Head of the State and a symbol of the unity of the country and represents the sovereignty of the country. He shall guarantee the commitment to the Constitution and the preservation of Iraq's independence, sovereignty, unity, and the safety of its territories, in accordance with the provisions of the Constitution.) and article (71) stipulate on (The President shall take the constitutional oath before the Council of Representatives according to the language stipulated in Article 50 of the Constitution.). as it is known in the stage that the defendant was the President Of The Iraqi Republic the Iraq was under real unconstitutional action to be divided. One of the most famous actions the proclamations issued by the government of Kurdistan Region and the representatives council and the political parties in it to announce the separation from the Federal Government and establishing an independent state called (Kurdistan) that might extend its borders in the next years to reach Baghdad and the Southern Governorates; then, Iraq will become a

Kurdish Iraq. Based in that the Kurdish people have the right to decide their own fate, and to end their connection with the country that they came for and born, lived, raised in, and grown in number and leave it without returning back without regretting on it, all of that violate article (1) of the Constitution that translated in their act in over tacking on the disputed territories, as it become reality can't be changed that it is a territory over tacked by the strangers, the defendant considered responsible of what happened and happening. The Bishmarqa forces over tacked the North Oil Facility and controlled the Oil Wells in it, this action will lead to announcing Karkuk Governorateas (impeached in it Arabic and Turkumanic origin by the Kurdish) a Kurdish governorate in official celebration where a decision was made to raise Kurdistan flag on all the department and announcing the separation from the federal government forgetting millions of Al-Mosel citizens that live under the tyranny of a gang that the betrayers entered them to the country on purpose to harm the Iraq independency, and put it in the danger of losing its federal democratic reign.

Who made these actions will judge by articles (194 & 196) of the Penal Code consider it a crime that effect the country internal security in time that the country going through organized and random criminal phenomenon; one of them is the rule of the tribes that consider outlaws actions, also that will lead to legislation the financial crime phenomenon that happened in the country institutions, and much more than that, that this draft is not be enough for, that led Iraq to (Somalis not one Somali) as the plaintiff mentioned in the case petition.

The defendant by the responsible given to him by the Constitution did not have any part in correction the Iraqi path that was going to the abyss, nor exercising his constitutional responsibly and what he swear on, e remained silent without any action to justify himself of what he was charged in missing his rule in managing the country affairs as he the constitution shepherd and a partner according to the characterization mentioned in article (66) of the Constitution, also he didn't shown any responsibility in inquiring the Prime Minister if he support what was decided in the ICR session no.(22) in 1.4.2017 decision no.(35) of raising the Iraqi flag only in the department of Karkuk Governorate and to cancel the Governorate council decision about raising Kurdistan flag on the Government buildings in the Governorate, also Karkuk Governor and Kurdistan Province doesn't have the right to deal with the Oil Wells or exporting the Oil without the Federal Government knowing and agreeing

according to articles (111 & 112) of Constitution, insuring that the Oil is the property of the Iraqi people.

For the aforementioned it is clear to the Court that:

1. The defendant did not practice his duties and legal responsibilities in dedication as it is mentioned in article (50) of Constitution.
2. He did not look for his people interests economically, scientifically, culturally, and socially to develop it to what coincide with the amount of wealth owned by the Iraq.
3. He did not keep the country wealth that was and will remain stolen in the shadows of the constitutional legislation with the knowledge of the defendant and his partners in the responsibilities of ruling the country and the people.
4. He did not keep the Federal Democratic Reign, as this is the most important duty of the defendant, he shouldn't neglect what Kurdistan Province Government and Karkuk Governorate council and the Bishmarqa forces did in overtaking the North Oil Facility and controlled the Oil Wells in it, he stood silent and did nothing, that the Kurdistan Province has restricted authorities as it is mentioned in article (143) of Constitution that insured the exception of article (35/Alf) of Country Administration For The Transition Phase from canceling and remain valid that included Kurdistan Province borders to 19/3/2003.

Therefore he request from the FSC to call the defendant for proceeding in a day the Court appoint and judge to convict him for perjury the Constitutional oath and violating the constitution according to article (61/sixth/Ba'. Of the constitution in the two parts 1 – 2) so that will be the base to set him down by the ICR with absolute majority and burden him the expenses and the fees of the case.

After registering the case in the FSC according to clause (third) of article (1) of the FSC Bylaw, and completing the required procedures and obtaining the defendant answer requesting to reject the case for the reasons mentioned in it.

13/6/2017 appointed as a date to hear the case, on it the court convened; the agents of the two parties attended and started the public proceeding and repeated their saying .

As the case is ready to be judged the Court decided to end the proceeding and the follow decision made clear.

THE DECISION:

In the deliberation and discussion the FSC found that the plaintiff claim against the defendant that the defendant didn't do his duties and legal responsibilities in dedication as it is mentioned in article (50) of Constitution, and he didn't looked for his people interests economically, scientifically, culturally, and socially to develop it to what coincide with the amount of wealth owned by the Iraq that was stolen with his knowledge in the shadows of the (constitutional legislation), and he didn't keep the Federal Democratic Reign.

Therefore the plaintiff request to convict the defendant for perjury the Constitutional oath and violating the constitution according to article (61/sixth/Ba'. Of the constitution in the two parts 1 – 2).

The agent of the defendant answered that his client is committed in the Constitution provisions and he is committed in the preservation of Iraq's independence, sovereignty, unity, and the safety of its territories, and request to reject the case because it is out of the FSC competence. Because the hearing in the charges against the President Of The Iraqi Republic by its competence stipulated in article (93/sixth) of constitution should be done by a legislative law, such a law isn't legislative so far.

The FSC finds that article (93/sixth) show that (a Law should be issued by the ICR so that the FSC will be able to judge in a charge against the President Of The Iraqi Republic in the matters mentioned in article (61/sixth/Ba'.)) . as this Law isn't legislative so far therefore the hearing in it will be out of the FSC competence.

So it decided to reject the plaintiff case for it is out of the court competence and burden him the expenses and the fees of the case. The decision was made unanimous and made clear in 13.6.2017.